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REVIEWING THE JUVENILE JUSTICE SYSTEM AND HOW IT SERVES AT-RISK YOUTH

HEARING

BEFORE THE

COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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REVIEWING THE JUVENILE JUSTICE SYSTEM AND HOW IT SERVES AT-RISK YOUTH

Thursday, October 8, 2015
U.S. House of Representatives
Committee on Education and the Workforce
Washington, D.C.

The Committee met, pursuant to call, at 10:06 a.m., in room HVC-210, Capitol Visitor Center, Hon. John Kline [chairman of the committee] presiding.

Present: Representatives Kline, Foxx, Walberg, Rokita, Messer, Brat, Carter, Bishop, Grothman, Curbelo, Allen, Scott, Davis, Courtney, Fudge, Wilson of Florida, Pocan, Clark, and DeSaulnier.

Staff Present: Lauren Aronson, Press Secretary; Janelle Belland, Coalitions and Members Services Coordinator; Amy Raaf Jones, Director of Education and Human Resources Policy; Nancy Locke, Chief Clerk; Dominique McKay, Deputy Press Secretary; Brian Newell, Communications Director; Krisann Pearce, General Counsel; James Redstone, Professional Staff Member; Alex Ricci, Legislative Assistant; Alissa Strawcutter, Deputy Clerk; Juliane Sullivan, Staff Director; Leslie Tatum, Professional Staff Member; Sheariah Yousefi, Staff Assistant; Tylease Alli, Minority Clerk/Intern and Fellow Coordinator; Austin Barbera, Minority Staff Assistant; Denise Forte, Minority Staff Director; Christian Haines, Minority Education Policy Counsel; Tina Hone, Minority Education Policy Director and Associate General Counsel; Brian Kennedy, Minority General Counsel; Michael Taylor, Minority Education Policy Fellow; and Saloni Sharma, Minority Press Assistant.

Chairman KLINE. A quorum being present, the Committee on Education and the Workforce will come to order.

Good morning, everyone. Welcome to today's hearing on the juvenile justice system. I'd like to thank our witnesses for joining us as we engage in a growing national conversation about how to set at-risk youth and juvenile offenders on the pathway to success.

Some may be wondering why the Education and the Workforce Committee is holding a hearing on an issue that might otherwise fall under the Judiciary Committee's purview. After all, the words crime, court, judge, jail are not terms we frequently hear in this committee. So why are we here today? Because keeping our communities safe and supporting at-risk youth requires more than an adjudication system and a detention facility. It requires education, rehabilitation, and family participation, a joint effort by parents, teachers, community members, and civic leaders to prevent crimi-

nal behavior and support children who have engaged in illegal activity.

The stakes are high for these youth and the communities they live in. Research shows children who have been incarcerated are up to 26 percent more likely to return to jail as adults. They are also 26 percent less likely to graduate high school. These are hardly the outcomes vulnerable children and their families deserve. They also have detrimental short- and long-term effects on our society, imposing costs on the taxpayers and jeopardizing the safety of others.

This is an issue that directly impacts our families and our neighborhoods, and we all have a role to play in addressing it.

Recognizing the value of a collaborative approach to juvenile justice, Congress passed the Juvenile Justice and Delinquency Prevention Act in 1974. The goal of the law is to educate at-risk youth and rehabilitate juvenile offenders so they can become productive members of society. The law is based on the premise that the juvenile justice system can create positive opportunities for children who would otherwise go without.

As we will hear from our witnesses, many juvenile justice programs have helped children develop the life skills they need to hold themselves accountable and earn their own success. Of course, not all programs have experienced the same results. That's why States and communities are constantly looking for new ways to better serve at-risk youth.

For example, many States are investing in alternatives to juvenile detention facilities, such as community and family-based support services to help children get back on track. It appears these efforts are making a difference. Between 2001 and 2011, crime and incarceration declined dramatically across the country. The rate of incarceration fell by 46 percent, and the rate of juvenile offenses fell by 31 percent.

While these trends are heading in the right direction, we still face the stark reality that there are more than 2 million children involved in the juvenile justice system. Meanwhile, many more are at risk of entering the system because of difficult circumstances that too often lead to juvenile delinquency, such as poverty, broken families, and homelessness.

As we discuss ways to better serve at-risk youth and juvenile offenders through education and rehabilitation, we have the privilege today of hearing from Sloane Baxter, someone who faced many of these challenges as a juvenile offender and who knows firsthand how community-based programs can set youth on a better path.

Mr. Baxter, thank you for the example you're setting. By sharing your story with us today, you are helping make a difference in the lives of others. We look forward to hearing from you and the rest of our distinguished witnesses.

Before I conclude my opening remarks, I want to commend my colleague, Ranking Member Scott, for his longstanding leadership on this important issue. I look forward to hearing from him today and to working with him in the future.

With that, I yield to Mr. Scott for his opening remarks.

[The statement of Chairman Kline follows:]

Prepared Statement of Hon. John Kline, Chairman, Committee on Education and the Workforce

Some may be wondering why the Education and the Workforce Committee is holding a hearing on an issue that might otherwise fall under the Judiciary Committee's purview. After all, the words "crime," "court," "judge," and "jail" are not terms we frequently hear in this committee. So why are we here today? Because keeping our communities safe and supporting at-risk youth requires more than an adjudication system and a detention facility. It requires education, rehabilitation, and family participation—a joint effort by parents, teachers, community members, and civic leaders to prevent criminal behavior and support children who have engaged in illegal activity.

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This is an issue that directly impacts our families and our neighborhoods, and we all have a role to play in addressing it. Recognizing the value of a collaborative approach to juvenile justice, Congress passed the Juvenile Justice and Delinquency Prevention Act in 1974. The goal of the law is to educate at-risk youth and rehabilitate juvenile offenders so they can become productive members of society.

The law is based on the premise that the juvenile justice system can create positive opportunities for children who would otherwise go without. As we will hear from our witnesses, many juvenile justice programs have helped children develop the life skills they need to hold themselves accountable and earn their own success. Of course, not all programs have experienced the same results. That's why states and communities are constantly looking for new ways to better serve at-risk youth.

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Before I conclude my opening remarks, I want to commend our colleague, Ranking Member Scott, for his long-standing leadership on this important issue. I look forward to hearing from him today and to working with him in the future.

Mr. SCOTT. Thank you, Mr. Chairman. I'd like to thank you for calling this hearing today on the juvenile justice system. You have properly explained why juvenile justice is in this committee, the Education and the Workforce Committee, not in Judiciary. That's because the most effective solutions to juvenile crime and delinquency are prevention, particularly education, and not waiting for crimes to occur and responding with the criminal justice system.

It's been over 100 years since we have established the juvenile court system in America. The juvenile system recognizes that children are generally less capable of having the requisite intent and maturity to commit crimes, and therefore, a rehabilitative and educational response to their misconduct, as opposed to a criminal justice response, is more appropriate.

Over the 20th century, State juvenile justice systems evolved separately and without Federal oversight. In time, many became to resemble the adult systems with little focus on children and their rehabilitation. In response, Congress passed the Juvenile Justice Delinquency and Prevention Act in 1974. It creates the Federal guardrails that protect our children in the juvenile justice system in each State.

JJDPA has three main components. The first act established core protections and other mandates that States must adhere to regarding the treatment of children in the juvenile justice system. It authorized formula and competitive grants to help States run their juvenile justice systems in line with the Federal requirements and provided delinquency prevention programs. And, finally, it created the Federal Office of Juvenile Justice and Delinquency Prevention, OJJDP, to oversee juvenile justice programs.

In the 13 years since we last reauthorized the program, there's been a wealth of knowledge and research that has been created that needs to be integrated into our Federal juvenile justice policies. For example, we've seen positive results some States have had from investing in alternatives to incarceration and secure detention. I know that our witnesses today will be able to speak to some of the work being done around the country in small residential settings as opposed to large child prison warehouses and reform schools that marred our past.

We have also documented the power evidence-based policies have in reducing crime and saving money. The Office of Juvenile Justice and Delinquency Prevention continues to fund and document practices and programs that have proven research bases and have marked impact on communities through prevention and intervention.

We have recognized the role that misguided school discipline practices, coupled with an unresponsive juvenile justice system, what they play in creating what's called the school-to-prison pipeline with students being arrested and referred to the juvenile justice system for minor offenses at early ages that traditionally had been resolved in the principal's office.

And perhaps more importantly, we have begun to realize around the country the role that trauma plays in the lives of disengaged youth. This is especially true in the lives of girls, the fastest-growing demographic in the juvenile justice system. The FBI statistics tell us that between 1980 and 2005 the rates of arrest for violent offenses, including physical assault, sexual assault, and homicide increased 78 percent for girls, while declining 6 percent for boys. Research also shows that of girls entering the juvenile justice system, they are twice as likely as boys to report sexual abuse and girls are four times more likely than boys to have experienced sexual assault.

I would be remiss if I didn't tell you that we know from briefings that will be taking place today at 11 o'clock, hosted by our colleague Karen Bass of California on this very topic, that is the rise of girls in the juvenile justice system and the link between sexual abuse and juvenile delinquency and what some researchers are calling the sexual-abuse-to-prison pipeline. We know that understanding trauma is often central in these young girls' and boys'

lives, and understanding that is essential to helping them turn their lives around.

Now, policy changes alone are not the only reason we need to reauthorize JJDPA. The current reauthorization expired in 2007, and while the law still remains technically in effect, the authorization levels—the guidelines on how Congress should appropriate funds—are no longer in effect. We had a rude awakening in the House earlier this year when the appropriations bill appropriating money for the Department of Justice zeroed out multiple accounts under the act. And since there's no current authorization to point to in law, we were unable to amend the appropriations bill to include some funding.

The chairman of the subcommittee who zeroed out the funding, did so by pointing out, in part, the fact that the program has not been reauthorized for 8 years and as such was either unnecessary or not a priority. The Senate recognized the need for Federal funds, and they restored the funding in their version of the Appropriations Act, but we're still likely to have the same problem year after year until we have a reauthorization of this program.

The Senate has taken the lead in reauthorizing the act, and they have a bill which passed out of committee and will be considered on the floor sometime in the near future. And I'm committed to working with you, Mr. Chairman, here in the House to produce a bill that will build on what we've learned in the last 13 years, and it's my sincere hope that we can get a bill on the President's desk before the end of this Congress.

I look forward to hearing the testimony of the witnesses today and hope we can move forward in a bipartisan manner for reestablishing JJDPA as guideposts for the juvenile justice policy for our country once again.

Thank you, Mr. Chairman.

[The statement of Mr. Scott follows:]

Prepared Statement of Hon. Robert C. "Bobby" Scott, Ranking Member, Committee on Education and the Workforce

Good morning. Chairman Kline, I'd like to thank you for calling this hearing today on our Juvenile Justice System.

It has been over 100 years since we established a juvenile court system in America. The juvenile system recognized children as generally incapable of having the requisite intent to commit crimes, therefore requiring a rehabilitative and educational response to their misconduct as opposed to a criminal justice response. Over the 20th century, state juvenile justice systems evolved separately and without federal oversight. In time, many came to resemble adult systems, with little focus on children and their rehabilitation.

In response, Congress passed the Juvenile Justice Delinquency and Prevention Act in 1974. It creates the federal guardrails that protect our children in the juvenile justice systems in each state. JJDPA has 3 main components. The act first established core protections and other mandates states must adhere to regarding the treatment of children in the juvenile justice system. It authorized formula and competitive grants to help states run their juvenile justice systems in line with the federal requirements and provide delinquency prevention programs. Finally it created the Federal Office of Juvenile Justice Delinquency Prevention (OJJDP) to oversee juvenile justice programs.

In the 13 years since we last reauthorized the program, there has been a wealth of knowledge and research created that needs to be integrated into our federal juvenile justice policies.

We have seen the positive results some states have had from investing in alternatives to incarceration and secure detention. I know our witnesses here today will be able to speak to some of the work being done around the country in small resi-

dential settings, as opposed to the large child prison warehouses and reform schools that marred our past.

We have documented the power evidence-based policies have in both reducing crime and saving money. The Office of Juvenile Justice and Delinquency Prevention, or OJJDP, continues to fund and document practices and programs that have proven research bases and make marked impact in communities through prevention and intervention.

We have recognized the role that misguided school discipline practices, coupled with an unresponsive juvenile justice system, play in creating a School to Prison Pipeline, with students being arrested and referred to the juvenile justice system for minor offenses at early ages.

And, perhaps most importantly, we have begun to realize around the country the role that trauma plays in the lives of our disengaged youth. This is especially true in the lives of girls, the fastest growing demographic in the juvenile justice system.

FBI statistics tell us that between 1980 and 2005, rates of arrest for violent offenses— including physical assault, sexual assault, and homicide—increased 78 percent for girls while declining 6 percent for boys. Research also shows that of girls entering the juvenile justice system are twice as likely as boys to report sexual abuse and girls were four times more likely than boys to have experienced sexual assault.

I would be remiss if I didn't let all of you here know about a briefing that will be taking place at 11 today, hosted by our colleague Karen Bass of California, on the this very topic, the rise of girls in the juvenile justice system and the link between sexual abuse and juvenile delinquency – what some researchers are calling the sexual abuse to prison pipeline.

Understanding the trauma that is often central in these young girls' and boys' lives is essential to helping them turn their life around.

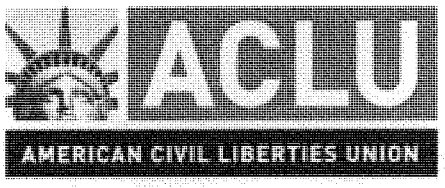
Policy changes alone though are not the only reason we need to reauthorize JJDPA. The current authorization expired in 2007. And while the law remains in effect, the authorization levels – the guidelines as to how Congress should appropriate funds – are no longer in effect. There was a rude awakening in the House this year when the Appropriators, in their FY 2016 bill appropriating money to the Department of Justice, zeroed out multiple accounts under JJDPA. And since there was no current authorization to point to in law, we were unable to amend it. The chairman of the subcommittee who zeroed out the funding did so pointing in part to the fact that the program had been out of authorization for 8 years, and as such was either unnecessary or not a priority. The Senate recognized the need for federal funds for juvenile justice so they restored funding in their version of the appropriation bill. But we are likely to have this same problem year after year, making the fight for juvenile justice funding an uphill climb until we have a reauthorization of JJDPA.

The Senate has taken the lead in reauthorizing JJDPA and they have a bill which has passed out of Committee and will be considered on the Senate floor sometime in the future. I am committed to working with Chairman Kline here in the House to produce a JJDPA bill as well that builds on what we've learned in the last 13 years, and it's my sincere hope we can get a bill to the President's desk before the end of this Congress. I look forward to hearing the testimony of the witnesses today and I hope we can move forward in a bipartisan manner to reestablishing JJPDA as the guidepost of juvenile justice policy for the country once again.

Chairman KLINE. I thank the gentleman.

Pursuant to Committee Rule 7(c), all members will be permitted to submit written statements to be included in the permanent hearing record. And without objection, the hearing record will remain open for 14 days to allow such statements and other extraneous material referenced during the hearing to be submitted for the official hearing record.

[The information follows:](Scott)26-57 breakdown in transcript



WRITTEN STATEMENT OF
THE AMERICAN CIVIL LIBERTIES UNION

For a Hearing on

"Reviewing the Juvenile Justice System and How It Serves At-Risk Youth"

Submitted to the Committee on Education and the Workforce of the U.S. House of Representatives

October 8, 2015

ACLU Washington Legislative Office

Karin Johanson, National Political Director
Jennifer Bellamy, Legislative Counsel

I. Introduction

On behalf of the American Civil Liberties Union ("ACLU"), we submit this statement to the U.S. House of Representatives' Committee on Education and the Workforce for its hearing: "Reviewing the Juvenile Justice System and How It Serves At-Risk Youth." The ACLU has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country. The ACLU takes up the toughest civil liberties cases and issues to defend all people from government abuse and overreach. With more than a million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, D.C., for the principle that every individual's rights must be protected equally under the law, regardless of race, religion, gender, sexual orientation, disability, or national origin.

We applaud the Committee for holding this timely and important hearing. Members of Congress on both sides of the aisle have acknowledged that our nation must address criminal justice reform broadly. The national conversation around reducing mass incarceration must incorporate not only de-incarceration of youth, but also federal juvenile justice reform and decriminalization. In recent decades, our nation has taken a troubling step backward in our response to youth crime and misbehavior, adopting punitive "tough-on-crime" measures that have caused great harm and come at great costs. The creators of the juvenile justice system originally viewed it as a system for providing prevention, protection, and redirection to youth, recognizing that young people are still developing and should be given opportunities for rehabilitation. Yet it is now more common for juveniles to experience tough sanctions and adult-type punishments instead. Every year, authorities arrest almost 2 million juveniles,[1] and on any given day, nearly 60,000 youth under age 18 are incarcerated in juvenile jails and prisons in the United States.[2]

The increasingly punitive environment for youth is also apparent in our schools, where "zero-tolerance" policies have led to about 3.5 million student suspensions[3] and 260,000 student referrals to law enforcement.[4] These overly harsh disciplinary policies push students out of school and into the juvenile justice system. Suspended and expelled children are often left unsupervised and without constructive activities. They also can easily fall behind in their coursework, leading to a greater likelihood of disengagement and drop-outs. All of these factors increase the likelihood of court involvement.[5]

Without implementing juvenile justice reform, we cannot significantly reduce mass

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[1] CHARLES PUZZANCHERA, U.S. DEP'T OF JUST., OFFICE OF JUV. JUST. AND DELINQ. PREVENTION, JUVENILE ARRESTS, 2008, (2009), *available at* http://www.ncjrs.gov/pdffiles1/ojjdp/228479.pdf.

[2] Carrie Johnson, *Juvenile Incarceration Rates Are Down; Racial Disparities Rise*, NPR (Jan. 2, 2015), http://www.npr.org/2015/01/02/374511130/juvenile-incarceration-rates-are-down-racial-disparities-rise-dramatically.

[3] DEP'T OF EDUC., SCHOOL CLIMATE AND DISCIPLINE: KNOW THE DATA (2015), *available at* http://www2.ed.gov/policy/gen/guid/school-discipline/data.html.

[4] DEP'T OF EDUC., OFFICE FOR CIVIL RIGHTS, CIVIL RIGHTS DATA COLLECTION, DATA SNAPSHOT: SCHOOL DISCIPLINE 1 (Mar. 2014), *available at* http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf.

[5] American Academy of Pediatrics, Committee on School Health, "Out-of-School Suspension and Expulsion," PEDIATRICS (Vol. 112 No. 5, Nov. 2003), p. 1207. *See also*: Johanna Wald & Dan Losen, "Defining and Re-directing a School-to-Prison Pipeline," NEW DIRECTIONS FOR YOUTH DEVELOPMENT (No. 99, Fall 2003), p. 11.

incarceration. An Arkansas Division of Youth Services study found that incarceration is the single most significant factor in predicting whether a youth will offend again, more so even than poor family relationships or gang affiliation.[6] Another study of Chicago youth processed by the Juvenile Court of Cook County found that "incarceration as a juvenile increases the probability of recidivism as an adult by 22-26 percentage points."[7] Importantly, research also shows that de-incarceration of youth works. One report looking at five states, including Arizona, Minnesota, and Tennessee, between 2001 and 2010 found no rise in juvenile crimes when these states reduced juvenile confinement by more than 50%.[8]

While policymakers are slowly returning to the original principles of juvenile justice,[9] there remains an urgent need to reframe our responses to juvenile delinquency. Congress should change laws and policies so that states and local jurisdictions use youth jails and prisons sparingly and instead provide effective community-based services and supports to system-involved young people and their families. Congress should also promote positive approaches to school discipline and dismantle the "school-to-prison pipeline." **We urge the Committee to consider the proposals outlined in this statement that move us away from a system of incarceration and toward one that not only holds youth accountable for their actions, but also provides a road map to put them back on track to becoming productive members of society.**

II. The School-to-Prison Pipeline and the Juvenile Justice System

The "school-to-prison pipeline" is a disturbing national trend wherein children are pushed out of schools and into the juvenile and criminal justice systems. Students of color and students with disabilities tend to be most affected because of an overreliance on discriminatory punitive school discipline policies and a lack of resources and training within schools.

The increased use of "zero-tolerance" policies and other exclusionary practices, like suspensions, expulsions and referrals to law enforcement, decrease academic achievement and increase the likelihood that students will end up in jail cells rather than in college classrooms.[10] In many schools that employ zero tolerance policies, minor misbehavior is criminalized and police are called in to handle problems that should properly be handled by teachers or administrators. This misguided model of school security has serious negative implications for youth, impacting not only their immediate lives but also their futures by increasing the likelihood that they will drop out and/or experience future criminal justice involvement.[11] As a result, far

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[6] JUSTICE POLICY INST., THE DANGERS OF DETENTION: THE IMPACT OF INCARCERATING YOUTH IN DETENTION AND OTHER SECURE FACILITIES 4 (2013), *available at* http://www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf.

[7] JUSTICE POLICY INST., STICKER SHOCK: CALCULATING THE FULL PRICE TAG FOR YOUTH INCARCERATION 22 (2014), *available at* http://www.justicepolicy.org/uploads/justicepolicy/documents/sticker_shock_final_v2.pdf.

[8] *See* Press Release, Justice Policy Institute, Five States Dramatically Reduce the Number of Youth in Juvenile Detention Centers (Feb. 27, 2013), http://www.justicepolicy.org/news/4952.

[9] Christina Wilkie, *A Bill To Keep Kids Out Of Prison Has A New Lease On Life, Thanks To Conservatives*, HUFFINGTON POST (May 7, 2015), http://www.huffingtonpost.com/2015/05/07/youth-promise-act_n_7232340.html.

[10] *See Disparate Impact in School Discipline Policies: Briefing before the* U.S. Comm'n on Civil Rights (March 11, 2011) (statement of the Leadership Conference), *available at* http://www.aclu.org/files/assets/Civil_Rights_Sign-On_Statement_for_USCCR_Record_on_School_Discipline_Briefing.pdf.

[11] *See, e.g.* TONY FABELO ET AL, BREAKING SCHOOLS' RULES: A STATEWIDE STUDY ON HOW SCHOOL DISCIPLINE RELATES TO STUDENTS' SUCCESS AND JUVENILE JUSTICE INVOLVEMENT, Council of State Governments Justice Center and The Public Policy Research Institute, Texas A&M University (July 2011); LINDA M. RAFFAELE MENDEZ, *Predictors of Suspension and Negative*

too many of the most at-risk students end up incarcerated instead of educated.

The burden of this trend falls disproportionately on students of color and students with disabilities, who are punished more harshly and more frequently for the same infractions that other kids commit.[12] In fact, there is no evidence that racial disparities in school discipline can be explained through higher rates of misbehavior by African American students.[13]

According to national data released by the Department of Education, African American students are 3.5 times more likely than their white peers to be suspended—and while they represented just 18% of the students in the sample, they accounted for 39% of expulsions.[14] Of the total students arrested or referred to law enforcement nationally, 70% were Latino or African American.[15] Students with disabilities are also subjected to overly punitive discipline practices at far higher rates than their peers.[16] In fact, students with disabilities are more than twice as likely to receive one or more out-of-school suspensions.[17] They are also far more likely to be victims of corporal punishment.[18] And although they made up only 12% of the students sampled by the Department of Education in their most recent data collection, they made up 70% of those subject to physical restraints.[19] As a result, they are at greater risk for the physical injury, emotional harm, and long-term adverse educational outcomes that can result. Many of the students within this group are also students of color, as they are disproportionately represented in certain special education classifications.[20]

Furthermore, for girls and young women the school-to-prison pipeline can become the "sexual abuse-to-prison pipeline." Research has shown not only that one in four American girls will experience some form of sexual violence by the age of 18, but also that sexual abuse is among the primary predictors of girls' involvement with juvenile justice systems.[21] As a result, girls, particularly girls of color, who are victims can become criminalized. However, systems are often ill-equipped to identify or treat the problem. Former Kentucky Department of Justice Commissioner Hasan Davis describes how children enter the system as victims of abuse and

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School Outcomes: A Longitudinal Investigation, NEW DIRECTIONS FOR YOUTH DEVELOPMENT (No. 99 Fall 2003); Gary Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, Justice Quarterly 23:4 (2006).

[12] Tamar Lewin, *Black Students Face More Harsh Discipline, Data Shows*, N.Y. TIMES (Mar. 6, 2012), http://www.nytimes.com/2012/03/06/education/black-students-face-more-harsh-discipline-data-shows.html?_r=1&hp; *see also* AMERICAN CIVIL LIBERTIES UNION & HUMAN RIGHTS WATCH, IMPAIRING EDUCATION 27 (2009), *available at* http://www.aclu.org/human-rights/impairing-education-corporal-punishment-students-disabilities-us-public-schools [hereinafter "Impairing Education"]

[13] *See* DANIEL LOSEN & RUSSELL SKIBA, SUSPENDED EDUCATION: URBAN MIDDLE SCHOOLS IN CRISIS, 10 (September 2010), *available at* http://www.indiana.edu/~equity/docs/Losen_Skiba___Suspended_Education.pdf.

[14] *See* Lewin, *supra* note 12.

[15] DEP'T OF EDUC., OFFICE FOR CIVIL RIGHTS, THE TRANSFORMED CIVIL RIGHTS DATA COLLECTION 2 (2012), *available at* http://www2.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf (offering a snapshot of 2009-2010 national data) [hereinafter "CRDC 2012"].

[16] *Id.* at 2.

[17] *Id.* at 3.

[18] *See* DEP'T OF EDUC., OFFICE FOR CIVIL RIGHTS, CIVIL RIGHTS DATA COLLECTION 2011-2012, *available at* http://ocrdata.ed.gov/StateNationalEstimations/Projections_2011_12.

[19] *Id.* at 5.

[20] U.S. COMM'N ON CIVIL RIGHTS, MINORITIES IN SPECIAL EDUCATION: A BRIEFING BEFORE THE UNITED STATES COMMISSION ON CIVIL RIGHTS HELD IN WASHINGTON, DC, DECEMBER 3, 2007 86 (April 2009) (statement of Hilary O. Shelton, Director of the NAACP Washington Bureau) , *available at* http://www.usccr.gov/pubs/MinoritiesinSpecialEducation.pdf.

[21] Timothy Williams, *History of Abuse Seen in Many Girls in Juvenile System*, N.Y. TIMES (Jul. 9, 2015), http://www.nytimes.com/2015/07/09/us/girls-in-juvenile-facilities-often-abused-report-says.html?_r=0.

neglect, only to later be locked up for running away from abusive homes as teenagers.[22] In fact, between 75-93% of youth entering the juvenile justice system annually in the U.S. are estimated to have experienced some degree of trauma.[23] Yet, many state and local governments and juvenile detention centers lack education and training around trauma-informed responses and continue to use methods and punitive measures that may re-traumatize youth.

III. Impact of Punitive School Discipline Policies

Excessive disciplinary measures disproportionately impact African American, Latino, and students with disabilities and are particularly harmful for African American and Latino students.[24] For example, according to Department of Education data, African American students comprise 15% of students in the collected data, but are 35% of the students who receive one suspension and nearly half of the students (44%) who are suspended more than once.[25] Over 50% of students in school-related arrests or who are referred to law enforcement are black or Latino. Students with disabilities make up 14% of students in the collection, but are 76% of students who are physically restrained by adults in their schools. Harsh punishments are an ineffective means to reduce disciplinary problems, and they often lead to an unwelcoming—and, in some cases, unsafe—learning environment.

Examples of over-reliance on punitive school discipline and zero tolerance policies gone awry are too numerous to count. For example, by removing teachers' and administrators' discretion to make judgements about how to respond properly to student misbehavior, zero tolerance policies often result in punishments that range from the harsh, like the high school honors student suspended for singing in the cafeteria, to the absurd, like the six year old Cub Scout who faced a 45-day sentence at a reform school for bringing a camping utensil to lunch. When such punitive policies as suspension and expulsion are used, students are removed from the classroom, causing them to lose valuable learning time. This approach puts already troubled kids even further behind, and discourages students who had been performing well.

These tactics have only exacerbated the national dropout crisis. The latest national data released by the Department of Education indicates that just 71% of African American and 75% of Latino students graduated from high school in 2013, compared to 87% of their white classmates.[26]

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[22] *See* Video of Hasan Davis, Former Commissioner, Kentucky Department of Justice, (Nov. 5, 2014), https://www.youtube.com/watch?v=IsOBMPUnOAQ&feature=youtu.be&list=PLZpsALsFMJ4nBa7Pd7Cykzkl7oLPTA8r8.

[23] JUSTICE POLICY INST., HEALING INVISIBLE WOUNDS: WHY INVESTING IN TRAUMA-INFORMED CARE FOR CHILDREN MAKES SENSE 1 (2010), *available at* http://www.justicepolicy.org/uploads/justicepolicy/documents/10-07_rep_healinginvisiblewounds_jj-ps.pdf.

[24] *See* KIMBERLE WILLIAMS CRENSHAW, PRISCILLA OCEN AND JYOTI NANDA, BLACK GIRLS MATTER: PUSHED OUT, OVERPOLICED AND UNDERPROTECTED (African American Policy Forum and the Center for Intersectionality and Social Policy Studies at Columbia Law University, 2015), *available at* http://www.law.columbia.edu/null/download?&exclusive=filemgr.download&file_id=613546.

[25] DEAR COLLEAGUE LETTER, CATHERINE E. LHAMON, ASST. SEC'Y, OFFICE FOR CIVIL RIGHTS, DEPT. OF EDUC., AND JOCELYN SAMUELS, ACTING ASST. ATT'Y GEN., CIVI RIGHTS DIVISION, U.S. DEP'T OF JUST., NONDISCRIMINATORY ADMINISTRATION OF SCHOOL DISCIPLINE 3 (2014), *available at* http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.pdf.

[26] Press Release, Department of Education, Achievement Gap Narrows as High School Graduation Rates for Minority Students Improve Faster than Rest of Nation (Mar. 16, 2015), *available at* http://www.ed.gov/news/press-releases/achievement-gap-narrows-high-school-graduation-rates-minority-students-improve-faster-rest-nation.

IV. Recommendations for Federal Congressional Reform

A. Ending the School-to-Prison Pipeline and Enacting Juvenile Justice Reform

As children nationwide continue to be funneled into the juvenile and criminal justice systems at alarming rates, Members of Congress on both sides of the aisle agree that a federal response to reverse this trend is necessary. Keeping students in school and out of the criminal justice system will dramatically benefit not only students and their families, but the country as a whole. We urge the House to support the legislative proposals discussed below which would provide crucial protections for youth who are already involved with the juvenile and criminal justice systems and would also prevent youth from entering the system in the first place.

(1) Reauthorize the Juvenile Justice and Delinquency Prevention Act (JJDPA)

The Juvenile Justice and Delinquency Prevention Act (JJDPA) is the primary vehicle through which the federal government sets and enforces standards for state and local juvenile justice systems.[27] Supported by nearly 200 national, state, and local organizations,[28] the JJDPA recognizes the unique needs of youth in the criminal justice system and establishes federal standards—or "core requirements"—for protecting incarcerated youth from victimization and abuse. The JJDPA also provides direct funding to states that are compliant with these requirements, as well as for critical research, training and technical assistance, and evaluation. The JJDPA requires states to address disproportionate minority contact (DMC), or the over-representation of youth of color in the justice system. It also prohibits youth who are under the jurisdiction of the juvenile justice system from being held in adult jails and lock-ups, except in very limited circumstances, such as while waiting for transport to juvenile facilities. In these limited circumstances where youth are placed in adult jails and lock-ups, the Act provides "sight and sound" separation between adult and juvenile inmates. In addition, youth are still often detained for technical violations of court orders, and the JJDPA prohibits the detention of youth for these so-called 'status offenses' (like truancy and running away from home),.[29]

JJDPA reauthorization is necessary to strengthen its provisions and to ensure that programs funded through JJDPA continue to receive funding. Since its enactment in 1974 and last reauthorization in 2002, few substantive reforms have been made to strengthen the bill, which expired in 2007. For example, the JJDPA's valid court order, or "VCO," exception allows for the secure detention of youth with non-criminal offenses for a violation of a VCO and has significantly undermined the requirement to deinstitutionalize status offenses. The Senate has already introduced and passed out of the Judiciary Committee a bipartisan bill (S. 1169) that would address these issues and improve the original JJDPA. The reauthorization bill would phase out the VCO exception over three years and provide additional safeguards for status offenders in the interim, provide clear direction to states and localities on how to reduce racial

[27] Press Release, American Civil Liberties Union, ACLU Urges Senate Judiciary Committee to Close School-to-Prison Pipeline (July 31, 2008), *available at* http://www.aclu.org/racial-justice_drug-law-reform_immigrants-rights_womens-rights/aclu-urges-senate-judiciary-committee.

[28] *Endorsements for S. 1169,* Act 4 Juvenile Justice (Last updated Sep. 16, 2015), *available at* http://act4jj.org/endorsements-s-1169.

[29] Press Release, American Civil Liberties Union, House Hears Testimony On Juvenile Justice Legislation (Apr. 21, 2010), *available at* http://www.aclu.org/racial-justice/house-hears-testimony-juvenile-justice-legislation.

and ethnic disparities among incarcerated youth, include improved standards for detaining youth to ensure they are not held with or near adults, include new procedural safeguards to improve juvenile re-entry services, and include compliance and fiscal accountability measures. Furthermore, the JJDPA reauthorization bill directs states and localities to implement and promote "trauma-informed" programs and practices, which are more effective at rehabilitating youth and at reducing recidivism, particularly for girls.[30]

Without reauthorization, the JJDPA could lose federal funding that allows programs at the state and local level to operate. In May 2015, the House Commerce, Justice, Science, and Related Agencies (CJS) appropriations bill that was voted out of Committee and passed in the House defunded juvenile justice programs.[31] While the Senate Appropriations Committee then considered the proposal and approved $75 million for mentoring, $65.5 million for Title II of JJDPA, the primary federal funding mechanism for juvenile justice in recent years, $40 million for Title V of JJDPA, and $2 million for girls' programming, JJDPA will continue to face similar threats without a reauthorized bill. We urge the Committee to quickly introduce and pass a companion bill modeled after the Senate bill reauthorizing JJDPA.

(2) Pass the Youth PROMISE Act (H.R. 2197)

The Youth Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education ("PROMISE") Act (H.R. 2197),[32] introduced by Ranking Member Bobby Scott (D-VA), seeks to curb youth violence and gang involvement by providing federal funding and support for community-based and evidence-based violence and delinquency prevention programs. Under the Youth PROMISE Act, local stakeholders from communities facing the most serious gang, delinquency, and crime challenges would work through PROMISE Coordinating Councils—comprised of parents, teachers, law enforcement officers, health and social service providers, and other community members—to identify and implement comprehensive plans designed to address the drivers of crime in that community and to keep youth from ever entering the criminal justice system. These plans can include after-school, mentoring, job training, and mental health treatment—all of which are more effective at cutting recidivism, lowering crime rates, decreasing delinquency, and yielding greater financial rates than traditional punitive methods. This legislation is community-driven, granting deference to best practices developed at the state and local level.

The Youth PROMISE Act has strong bipartisan support.[33] Currently, the bill has 41 co-sponsors, including four Members of this Committee. Last year, the Youth PROMISE Act had 141 co-sponsors, including twelve Members of this Committee.

Additionally, the Youth PROMISE Act is cost-effective and saves taxpayer funds. The current model of juvenile incarceration, costing states from $50,000 to $200,000 per bed each year, is economically unsustainable and has yielded poor results. In Minnesota, for example, the cost of confining one youth costs $287 per day.[34] In 2010, Minnesota held 9,569 youth in a secure

[30] *Supra* note 23 at 10.
[31] Commerce, Justice, Science, and Related Agencies Appropriations Act, 2016, H.R. 2578, 114th Cong. (1st Sess., 2015).
[32] Youth Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education Act, H.R. 2197, 114th Cong. (1st Sess., 2015).
[33] *Supra* note 9.
[34] *Supra* note 7 at 11.

detention setting,[35] meaning that the state could have spent almost $2,750,000 per day detaining youth. By contrast, community-based alternatives like those promoted in the Youth PROMISE Act could cost less than $75 per day. Moreover, the Youth PROMISE Act would generate long-term savings by keeping youth out of the costly detention systems and redirecting them to cheaper and more effective alternative programs. The Pennsylvania Commission on Crime and Delinquency found that a program very similar to the Youth PROMISE Act saved, on average, $5 for every $1 invested in prevention. The evidence-based Youth PROMISE Act would also provide for analyses of the cost-savings to society yielded by investing in prevention and intervention rather than in far more costly prosecution and incarceration.

For these reasons, the Youth PROMISE Act has strong support from the law enforcement community, including the International Association of Chiefs of Police,[36] the Major County Sheriffs' Association, the National Sheriffs' Association,[37] as well as the faith and justice communities.[38] For example, Hennepin County (MN) Sheriff Richard Stanek, who served as the President of the Major County Sheriffs' Association in 2013, stated that the Youth PROMISE Act was "an important step toward greater collaboration in communities to strengthen prevention and intervention efforts targeting gang violence and at-risk youth. The bill's focus on implementation of evidence-based programs aligns with smarter approaches in today's criminal justice system."[39]

Congress should reject, once and for all, outdated and costly "tough on crime" practices that funnel more funds and young people – overwhelmingly African American and Latino – into the juvenile and adult criminal justice systems and should turn instead to intelligent yet compassionate legislation designed to divert at-risk youth from a life of institutionalization and to protect the youngest and most vulnerable members of society. We urge the Committee to hold a mark-up on H.R. 2197 and to pass it out of Committee.

(3) Pass Legislation Ending Juvenile Life Without Parole and Juvenile Solitary Confinement and Allowing for Juvenile Expungement

Congress should pass legislation that ends the over-incarceration of youth, through practices such as juvenile life without parole (JLWOP) and juvenile solitary confinement, and provides them with the tools they need to grow into healthy and productive adults. In this regard, we urge the House to look to the juvenile justice reform provisions included in the Senate's Sentencing Reform and Corrections Act.

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[35] MINN. DEP'T OF PUB. SAFETY, OFFICE OF JUSTICE PROGRAMS, ON THE LEVEL: DISPROPORTIONATE MINORITY CONTACT IN MINNESOTA'S JUVENILE JUSTICE SYSTEM 17 (2012), *available at* https://dps.mn.gov/divisions/ojp/forms-documents/Documents/On%20The%20Level_FINAL.pdf.

[36] Letter, Chief Yousry Zakhary, President, International Association of Chiefs of Police, to Senator Mary Landrieu and Senator James Inhofe (Nov. 20, 2013), *available at* http://www.theiacp.org/Portals/0/documents/pdfs/IACP%20Support%20Letter%20Youth%20PROMISE%20Act.pdf.

[37] Letter, Sheriff (ret.) Aaron D. Kennard, Executive Director, National Sheriffs' Association to Senator Mary Landrieu and Senator James Inhofe (July 17, 2013), *available at* https://www.sheriffs.org/sites/default/files/uploads/documents/GovAffairs/NSA%20Youth%20PROMISE%20Act%20Support-%20Senate.pdf.

[38] *Organizations, Officials, and Experts Supporting the Youth PROMISE Act*, Youth Promise Action, http://youthpromiseaction.org/documents/Organizations_Officials_&_Experts_Supporting_YPA.pdf.

[39] Letter, Richard W. Stanek, President, Major County Sheriffs' Association, to Senator Mary Landrieu and Senator James Inhofe (Aug. 2, 2013).

The Sentencing Reform and Corrections Act would eliminate juvenile life without parole. Children as young as 13 in the United States are sentenced regularly to spend the rest of their lives in prison without any opportunity for release. Approximately 2,500 children have been sentenced to juvenile life without parole (JLWOP) in the United States.[40] Despite a global consensus that children cannot be held to the same standards of responsibility as adults and despite recognition that children are entitled to special protection and treatment,[41] the United States allows children to be treated and punished as adults. The United Nations special rapporteur on torture criticized the U.S. model of youth detention, stating that "sentences of an extreme length have a disproportionate impact on children and cause physical and psychological harm that amounts to cruel, inhuman or degrading punishment."[42]

In recent years, the U.S. Supreme Court has begun to recognize the cruel and unusual nature of sentencing kids to remain behind bars until they die, holding that life without parole sentences for non-homicide offenses committed by persons below the age of eighteen are unconstitutional,[43] and then banning mandatory life without parole sentences for children who commit homicide offenses.[44] Following the Supreme Court's lead, some states have passed laws eliminating life without parole sentences for children, and some state supreme courts have retroactively and proactively banned the punishment for kids.[45] In Virginia, a federal court ruled this year that the state may not sentence juveniles convicted of offenses other than homicide to life without parole.[46] However, because the U.S. Supreme Court did not categorically ban the practice, life without parole sentences for kids are still allowed in "rare" cases, meaning that Americans may still be sentenced to die in prison for crimes they commit as children. Forty-four states still allow the punishment.[47] Federal legislation is necessary to end the practice completely. The Sentencing Reform and Corrections Act would also give judges discretion to reduce the sentence of a defendant convicted of an offense committed when the defendant was a juvenile once the defendant has served 20 years in prison for the offense.

The Sentencing Reform and Corrections Act would ban juvenile solitary confinement, with narrowly defined exceptions. Locking children alone in a cell for 22-24 hours a day is child abuse. The U.S. Department of Justice (DOJ) has stated that the "isolation of children is dangerous and inconsistent with best practices and that excessive isolation can constitute cruel and unusual punishment."[48] For youth, isolation is psychologically shattering,[49] places them at a

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[40] THE SENTENCING PROJECT, JUVENILE LIFE WITHOUT PAROLE: AN OVERVIEW 1 (2015), *available at* http://sentencingproject.org/doc/publications/jj_Juvenile_Life_Without_Parole.pdf.

[41] Brief of *Amici Curiae* Amnesty International, Et Al. In Support of Petitioners at 2, Miller v. Alabama, 567 U. S. ____ (2012) (No. 10-9646 and 10-9647), *available at* https://www.hrw.org/sites/default/files/related_material/10-9646%2010-9647%20amicus%20brief%201.2012.pdf.

[42] Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, U.N. DOC. A/HRC/28/68 (Mar. 5, 2015) (by Juan E. Mendez), *available at* http://antitorture.org/wp-content/uploads/2015/03/Children_Report.pdf.

[43] Graham v. Florida, 560 U.S. ___ (2010).

[44] Miller v. Alabama, 567 U. S. ____ (2012).

[45] *See e.g.*, Sarah Schweitzer & Michael Levenson, *Mass. SJC bars no-parole life terms for youth*, BOSTON GLOBE (Dec. 24, 2013), https://www.bostonglobe.com/metro/2013/12/24/mass-high-court-strikes-down-life-without-parole-sentences-for-juveniles/eyjKrVSE2EXD0KF7wQXX5M/story.html.

[46] Press Release, American Civil Liberties Union, ACLU of Virginia Applauds Ruling Abolishing Life Without Parole for Most Juvenile Offenders in Virginia (Jul. 7, 2015), *available at* https://www.aclu.org/news/aclu-virginia-applauds-ruling-abolishing-life-without-parole-most-juvenile-offenders-virginia.

[47] Map, The Campaign for the Fair Sentencing of Youth, Stand Up for Fair Sentencing (2015), *available at* http://fairsentencingofyouth.org/get-involved/standing-up-for-fair-sentencing/.

[48] Letter from Robert L. Listenbee, Administrator, US Department of Justice, to Jesselyn McCurdy, Senior Legislative Counsel,

higher risk for committing suicide,[50] and stunts their social and physical development.[51] Moreover, solitary confinement can worsen existing health issues and trauma. Given the lasting damage that solitary confinement can inflict on youth, it's time to end the solitary confinement of youth and strictly limit and uniformly regulate isolation practices in juvenile detention and correctional facilities. Healthy human contact, positive reinforcement, small-group living, and immediate and proportional interventions, as well as interactive treatment programs, are more successful at preventing problem behaviors and addressing mental health problems in youth than isolation.

The Sentencing Reform and Corrections Act would permit certain juveniles to obtain sealing or expungement of their federal convictions in certain circumstances. Children who have committed crimes have great potential to grow. Thus, when youth make mistakes, the best approach is to focus on rehabilitating them so they can become productive members of society. A criminal record, however, can make it more difficult for a young person to start over. Allowing youth to seal or expunge their records helps ensure that they will not be haunted by their youthful mistakes as adults.

B. Reforming School Discipline Practices That Feed the School-to-Prison Pipeline

Providing all students with equal access to quality education in a safe, supportive environment is one of the most important civil rights challenges currently facing us as a nation. The following legislative proposals would not only put an end to many overly punitive discipline practices, they would help to reduce the discriminatory application of these practices and advance reforms that promote a safe and healthy school environment for *all* students. We urge the House to take up the following bills focused on reducing school discipline disparities:

- ***The Positive Behavior for Safe and Effective Schools Act.*** This bill would give schools the tools they need to improve learning environments by allowing schools to dedicate Title I federal funds to the development of school-wide positive behavior supports. Positive behavior supports are evidence-based practices demonstrated to reduce disciplinary referrals, suspensions and expulsions, increase academic achievement, and

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American Civil Liberties Union 1 (Jul. 5, 2013), https://www.aclu.org/sites/default/files/assets/doj_ojjdp_response_on_ij_solitary.pdf.

[49] AM. CIV. LIB. UNION, ALONE & AFRAID: CHILDREN HELD IN SOLITARY CONFINEMENT AND ISOLATION IN JUVENILE DETENTION AND CORRECTIONAL FACILITIES 4 (2014), *available at* https://www.aclu.org/files/assets/Alone%20and%20Afraid%20COMPLETE%20FINAL.pdf.

[50] Lindsay M. Hayes, DEP'T OF JUST., OFFICE OF JUV. JUST. AND DELINQ. PREVENTION, JUVENILE SUICIDE IN CONFINEMENT: A NATIONAL SURVEY (2009), *available at* https://www.ncjrs.gov/pdffiles1/ojjdp/213691.pdf; Seena Fazel, Julia Cartwright, et al., Suicide in Prisoners: A systematic review of Risk Factors, J. CLIN. PSYCHIATRY 69 (2008); Christopher Muola, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, SUICIDE AND HOMICIDE IN STATE PRISONS AND LOCAL JAILS (2005), *available at* http://bjs.ojp.usdoj.gov/content/pub/pdf/shsplj.pdf. Adults in solitary confinement also account for a disproportionate number of suicides among people in prisons. In California, for example, altbough less than 10 percent of the state's prison population was held in isolation units in 2004, those units accounted for 73 percent of all suicides. Expert Report of Professor Craig Haney at 45-46, n.119, Coleman v. Schwarzenegger, Plata v. Schwarzenegger, No. 90-0520 LKK-JFM P, No. C01-1351 TEH (E.D.Cal, N.D. Cal. filed Aug. 15, 2008); for information on adult suicide rates in jails and prisons, see generally MARGARET NOONAN & E. ANN CARSON, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, PRISON AND JAIL DEATHS IN CUSTODY, 2000-2009 – STATISTICAL TABLES (2011), *available at* http://bjs.ojp.usdoj.gov/content /pub/pdf/pjdc0009st.pdf (providing detailed statistics on suicide rates nationally in adult jails and prisons).

[51] *Supra* note 4 at 5.

improve school safety.[52] Over 16,000 schools across the country are already implementing school-wide positive behavior supports (SWPBS).[53] This bill would make school climates more conducive to learning by helping to reduce reliance on suspensions, expulsions, and referrals to law enforcement, all of which contribute to the dropout crisis,[54] and enabling the Department of Education to provide more training and technical assistance on effective school discipline practices and to support the development of alternatives to over-policing.

- ***The Ending Corporal Punishment in Schools Act (H.R. 2268)***: The Ending Corporal Punishment in Schools Act (H.R. 2268) would prohibit the use of physical punishment at school[55]—a practice still legal in 19 states.[56] The most recent national data available indicates that almost a quarter million students are the victims of this every year. Aside from the infliction of pain and the physical injuries which often result from the use punishments, these violent disciplinary methods also impact students' academic achievement and long-term well-being. The use of corporal punishment is not only ineffective when it comes to improving behavior, but it can also cause children to withdraw academically and socially, leading to fear, depression, and anger. Furthermore, data shows that corporal punishment is applied at shockingly disproportionate rates against African American students and students with disabilities. For example, while African Americans made up 21.7% of public school students in states that allowed corporal punishment during the 2006-2007 school year, they accounted for 35.6% of those who were hit. Rates are similarly disproportionate for students with disabilities and evidence suggests that these students are often beaten for behavior that arises from their disabilities themselves. A federal prohibition on this destructive practice is long overdue. We urge the House to pass the Ending Corporal Punishment in Schools Act.[57]

- ***The Keeping All Students Safe Act***: The Keeping All Students Safe Act (S. 2020) restricts the use of harmful restraint and seclusion practices in schools.[58] Currently, no federal laws restrict the use of restraint and seclusion in schools, and less than one-third of states limit the use of restraint and seclusion to emergencies involving an imminent risk of physical harm.[59] This is not an isolated problem. Data indicates that in the 2009-

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[52] Deborah J. Vagins, *Teach (and Treat) Our Children Well*, HUFFINGTON POST (Dec. 3, 2009), http://www.huffingtonpost.com/deborah-j-vagins/teach-and-treat-our-child_b_378794.html.

[53] Amy Norton, *Study gives school behavior program a good grade*, REUTERS, Oct. 16, 2012, *available at* http://www.reuters.com/article/2012/10/16/us-behavior-program-idUSBRE89F17W20121016.

[54] Letter from the Dignity in Schools Campaign to Members of Congress (Dec. 18, 2009), *available at* http://www.aclu.org/files/assets/PBSESA_-_Dignity_in_Schools_Campaign_HR_2597_Support_Letter_FINAL.pdf.

[55] The Ending Corporal Punishment in Schools Act, H.R. 2268, 114th Cong. (1st Sess. 2015).

[56] Yunji DeNies, *Should Your Child Be Spanked at School? In 19 States, It's Legal*, ABC NEWS, March 16, 2012, *available at* http://abcnews.go.com/US/spanking-school-19-states-corporal-punishment-legal/story?id=15932135#.UL6PkFFAUTA (These states are: Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Wyoming).

[57] Coalition Letter to Rep. Carolyn McCarthy (June 28, 2010), *available at* http://www.aclu.org/human-rights-racial-justice/sign-letter-supporting-ending-corporal-punishment-schools-act;
Press Release, Office of Rep. Carolyn McCarthy, Bill Banning Corporal Punishment in Schools To Be Introduced in Congress (Sept. 21, 2011), *available at* http://carolynmccarthy.house.gov/recent-news/rep-mccarthy-introducing-bill-banning-corporal-punishment-in-schools/.

[58] The Keeping All Students Safe Act, S. 2020, 112th Cong. (1st Sess. 2011), *available at* http://www.gpo.gov/fdsys/pkg/BILLS-112s2020is/pdf/BILLS-112s2020is.pdf

[59] JESSICA BUTLER, AUTISM NAT'L COMM., HOW SAFE IS THE SCHOOLHOUSE? AN ANALYSIS OF STATE SECLUSION AND RESTRAINT LAWS AND POLICIES 4 (2012), *available at* http://www.autcom.org/pdf/HowSafeSchoolhouse.pdf.

2010 school year alone, there were over 40,000 incidents nationally of students subjected to the use of physical or mechanical restraint.[60] Of these, students with disabilities were grossly over-represented, and students of color with disabilities even more so. Although African American students made up just 21% of students with disabilities under the IDEA, they made up 44% of students with disabilities who were subject to mechanical restraint.[61] There is no evidence that the use of these techniques solves behavior problems. However, there is evidence that they have resulted in severe injuries and death for the students against whom they are used.[62]

The Keeping All Students Safe Act would provide much-needed protections for all students, and particularly for students who are disproportionately impacted by these practices. It would prohibit the use of seclusion, mechanical and chemical restraint techniques, and physical restraints (with very limited exceptions). It would also require state-approved crisis intervention training and certification for school personnel, direct timing for debriefing sessions with parents, the involved students, and schools, and would provide grant funding for states to establish clear policies and procedures to meet these new standards, assist with data collection, and improve school culture by implementing school-wide positive behavior interventions and supports.[63]

C. Supporting Administrative Reforms That Will Complement Congressional Proposals for Ending the School-to-Prison Pipeline

We also ask this Committee to urge the Administration to adopt the following reforms to end the school-to-prison pipeline and ensure that schools are held accountable for the success of all students.

- ***Civil Rights Data Collection***: The Department of Education's Civil Rights Data Collection (CRDC) program compiles statistical information about the placement, treatment, and achievements of students in order to discover issues which have a discriminatory impact on particular groups. Recently, the Office for Civil Rights (OCR) has made significant improvements to its data collection efforts, including expanding requiring reporting data on school discipline practices, like corporal punishment and restraint and seclusion, as well as on the number of allegations of harassment and bullying based on sexual orientation. When OCR released portions of Part Two of its 2009 CRDC in 2012, the numbers provided much-needed insight into the serious disparities in punishments for students of color and students with disabilities, resulting

[60] Letter from American Civil Liberties Union to Rep. Tom Harkin and Rep. Mike Enzi, Chairman and Ranking Member of the Senate Health, Education, Labor and Pensions Committee (July 11, 2012), *available at* http://www.aclu.org/files/assets/aclu_letter_for_senate_help_comm_hrg_s__2020_keeping_all_students_safe_act.pdf [hereinafter "Restraint and Seclusion Letter"]
[61] CRDC 2012, *supra* note 15, at 5.
[62] *See* GREGORY D. KUTZ, GOVERNMENT ACCOUNTABILITY OFFICE, SECLUSIONS AND RESTRAINTS: SELECTED CASES OF DEATH AND ABUSE AT PUBLIC AND PRIVATE SCHOOLS AND TREATMENT CENTERS 5 (2009), *available at* http://www.gao.gov/new.items/d09719t.pdf; *see also* Restraint and Seclusion Letter, *supra* note 60.
[63] Restraint and Seclusion Letter, *supra* note 60.

from those students being pushed out of school and into the criminal and juvenile justice systems.[64]

While the new data categories on punitive discipline, including referrals to law enforcement and school related arrests, were extremely helpful in piecing together a national picture of school discipline, the CRDC's success was hampered by the failure of a number of school districts to report certain data items adequately, with particularly poor reporting on law enforcement referrals and school-related arrests.[65] In the future, the Department of Education must ensure that all local education authorities (LEAs) understand and comply with mandatory reporting requirements, and are held accountable for failure to do so.[66] Going forward, it will also be important to preserve the advancements that OCR has made to this valuable process. In particular, OCR must have the resources and support to make the CRDC an annual and universal collection from districts. We also support federal legislation to codify the CRDC and ensure that it is made permanent.

- ***Strengthen the Department of Justice's Office of Juvenile Justice and Delinquency Prevention***: Over the past decade, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has suffered depletion of funding and support. Since 2002, funding levels for OJJDP have declined more than 90%.[67] This has halted progress in advancing reform and sends the message that federal leadership in juvenile justice is not a priority. We urge Congress to fully fund juvenile justice programs and provide OJJDP with the resources needed to help states create and sustain juvenile justice systems that are less costly, enhance public safety, and offer appropriate interventions for court involved youth.

- ***Reduce Over-Policing in Schools through the Federal Grant Process and Training***: We support using the reduction of excessively harsh school discipline practices as a criterion for federal funding. States and localities that currently receive federal grants should be required to develop non-punitive alternatives to exclusionary school discipline policies such as over-policing, and ensure appropriate training for school police and personnel in developmentally appropriate tactics. Both schools and police departments should understand that the overuse and/or the racially disproportionate use of law enforcement to respond to student misbehavior could lead to reductions in federal funds. Schools that receive school climate grants should be required to report on the use of law enforcement and their plans for reducing reliance on police as well as any racial

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[64] *See* Lewin, *supra* note 12; Deborah J. Vagins, *Counting On Us: Release of New Civil Rights Data Is the First Step in Helping Our Kids*, HUFFINGTON POST (Mar. 9, 2012), http://www.aclu.org/blog/human-rights-racial-justice-lgbt-rights-religion-belief-reproductive-freedom/counting-us.

[65] Comments from the American Civil Liberties Union to the Director of the Information Collection Clearance Division, *ACLU Comments for 2013-2014 and 2015-1016 Mandatory Civil Rights Data Collections, 78 FR 72873, Docket ID number ED-2013-ICCD-0079* (Jan. 3, 2014), *available at* https://www.aclu.org/sites/default/files/assets/aclu_comments_to_dept_of_ed_ocr_on_2013_and_2015_civil_rights_data_colle....pdf.

[66] *Id.*

[67] *See* The Department of Justice, Office of Justice Programs Oversight: Hearing Before the Subcomm. on Crime, Terrorism and Homeland Security of the H. Comm. on the Judiciary, 110th Cong. 7 (2008) (statement of Shay Bilchik, former OJJDP Administrator), *available at* http://judiciary.house.gov/hearings/pdf/Bilchik080918.pdf.

disparities in arrests, citations, or tickets. Where the federal government identifies persistent overreliance on racial disparities, it should deny renewal grants until these problems are adequately addressed.

For example, in 2004, in Clayton County, Georgia, the juvenile court, concerned about increases in school referrals from law enforcement, convened leaders from the school district, the community, mental health professionals, and law enforcement. By making clear law enforcement is more appropriately used for safety as opposed to involvement in school discipline, Clayton County reduced court referrals of students by 70% and graduations rates increased 20%.[68]

V. Conclusion

We thank Chairman Kline and the Committee on Education and the Workforce for holding this important hearing on the juvenile justice system. The most effective criminal justice reform is to keep the next generation out of prison in the first place, by reducing juvenile incarceration, implementing prevention and intervention methods for at-risk youth, and ending overly punitive and exclusionary discipline policies which interfere with children's access to quality education. By supporting legislative and administrative efforts to reduce overly punitive and discriminatory school discipline practices, Congress can help to end this cycle and give all of America's children the chance to succeed.

[68] Donna St. George, *Judge Steve Teske Seeks to Keep Kids with Minor Problems Out of Court*, WASHINGTON POST, Oct. 17, 2011, *available at* http://articles.washingtonpost.com/2011-10-17/lifestyle/35280676_1_school-discipline-student-discipline-russell-skiba; *see also* Matt Cregor and Damon Hewitt, *Dismantling the School-to-Prison Pipeline:A Survey from the Field* 20 Poverty and Race 5, 6 (2011), *available at* http://www.naacpldf.org/files/case_issue/PRRAC%20journal%20Jan_Feb%202011-%20Dismantling_the_School-to-Prison_Pipeline.pdf.

A CAMPAIGN OF THE JUVENILE JUSTICE & DELINQUENCY PREVENTION COALITION
—the collective voice of more than 350 organizations nationwide—

Statement Submitted by the Act-4-JJ Campaign
To Chairman Kline, Education & Workforce Committee
"Reviewing the Juvenile Justice System and How It Serves At-Risk Youth"
October 8, 2015

Dear Chairman Kline:

Thank you for holding the hearing, "Reviewing the Juvenile Justice System and How it Serves At-Risk Youth" on October 8, 2015 and for this opportunity to provide the Committee with written testimony.

On behalf of the Act 4 Juvenile Justice Campaign (Act4JJ), we submit the following testimony in support of Congress reauthorizing the only federal law that protects youth in custody, the Juvenile Justice and Delinquency Prevention Act (JJDPA).

Act4JJ is a campaign of the National Juvenile Justice and Delinquency Prevention Coalition (NJJDPC), and represents more than 180 national and state organizations that work on youth development and juvenile justice issues. ACT4JJ is composed of juvenile justice, child welfare and youth development organizations advocating for the reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDPA) and increased federal funding for juvenile justice programs and services.

The juvenile court was created in 1899 in Chicago, IL in recognition that youth were different from adults, that they should have the opportunity to be rehabilitated, and that they should be afforded certain protections because of the vulnerabilities inherent to their age. Despite the establishment of a separate court, over the first half of the 20th century, it became clear that very few protections were afforded to youth who had contact with the juvenile justice system. Rather than being rehabilitated, youth in custody were frequently isolated, ignored, or brutalized, often in adult criminal justice facilities. The JJDPA was first authorized more than 40 years ago in response to there being no centralized juvenile justice system, no standards, and no systemic data to determine the outcomes for youth, families, or communities that have contact with any one of the 56 local juvenile justice systems.

The JJDPA does three things: first, it established four core protections that states must comply with and monitor in order to receive federal funding; second, it requires states to organize a multidisciplinary statewide advisory group (SAG) that establishes a three year plan to address delinquency and prevention; and finally, it created and supports the Office of Juvenile Justice & Delinquency Prevention (OJJDP) to administer the program, provide training and technical assistance, and to disseminate data and research to the field. The four core protections include: a prohibition on incarcerating youth charged with status offense behaviors such as running away from home and skipping school; removal of youth from adult jails and prisons; ensuring those youth who are temporarily co-located with adults

inmates are sight and sound separated from adults; and addressing the disproportionate minority contact of youth in the system.

Today, many juvenile justice systems across the United States are in urgent need of reform, and federal leadership is necessary to advance the pace of change. Despite a steady drop in juvenile incarceration and out-of-home placements over the past decade, there are still far too many young people being locked up and placed away from home who could be handled more effectively in their own communities. Although the number of juvenile arrests accounts for a small portion of the nation's crime and has declined more than 45 percent since 2004[i], each year, police still make more than 600,000 juvenile arrests;[ii] juvenile courts handle roughly 1.2 million cases;[iii] and 250,000 youth are prosecuted in the adult criminal justice system.[iv] On any given night, nearly 60,000 children are placed in secure confinement in state juvenile justice systems, most for non-violent offenses. The vast majority are youth of color.[v] An additional 6,000 children are held in adult jails and prisons[vi] and an estimated 100,000 youth are admitted into local adult facilities and prisons each year.[vii]

Current juvenile justice policies and practices too often ignore children's age and amenability to rehabilitation, cause long-term collateral consequences, waste taxpayer dollars, and violate our deepest held principles about equal justice under the law and the role of the juvenile justice system. Many state systems exhibit racial and ethnic disparities, lack sound mental health and drug treatment services, and apply excessively harsh sanctions for minor and nonviolent adolescent misbehavior. Too often, community safety is jeopardized when states and localities adopt costly and overly punitive approaches that are shown repeatedly to produce the worst outcomes for children, their families, and public safety, including high rates of re-offense and higher severity of offending due to justice system contact.[viii] Because the most expensive, hardware-secure, deep end programs are often the least effective, it is fiscally responsible to support juvenile justice reforms that promote keeping youth in smaller programs in their homes or communities whenever possible.[ix]

Reauthorization of the JJDPA is currently more than seven years overdue. Congress can and should use the reauthorization of the JJDPA as an opportunity to strengthen accountability, restore federal investment in juvenile justice, help states protect public safety, hold delinquent youth accountable, protect our children from harm, and provide rehabilitation services to prevent future delinquency. This landmark law was last reauthorized in 2002, but few substantive changes were made at that time. Since the last major reauthorization of the JJDPA nearly two decades ago, much more is known about what works and does not work to keep our communities safe and put youth on a better path.

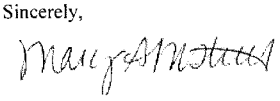
Congress should reintroduce this legislation, hold hearings, and pass a final JJDPA reauthorization bill that follows the Recommendations to the 114th Congress issued by the National Juvenile Justice & Delinquency Prevention Coalition in March, 2015, including:

- Extend the Jail Removal and Sight and Sound separation core protections to all youth under the age of 18 held pretrial, whether charged in juvenile or adult court.
- Strengthen the Deinstitutionalization of Status Offenders (DSO) core protection, which prohibits the locked detention of status offenders, by removing the valid court order (VCO) exception.
- Strengthen the Disproportionate Minority Contact (DMC) core protection by requiring States to take concrete, measurable steps to reduce racial and ethnic disparities in the juvenile justice system.

- Provide a research-based continuum of mental health and substance abuse services to meet unmet needs of court-involved youth and their families, including diversion and re-entry services.
- Ensure that programs and practices designed to address the needs of system-involved youth are both evidence-based and trauma-informed and reflect adolescent development principles.
- Ensure that confined youth receive high quality education aligned with state and local curricula, and that they receive supports for successful re-entry to school.

Thank you for consideration of this testimony and the Recommendations to the 114th Congress as part of the Congressional Record.

Sincerely,



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[i] Federal Bureau of Investigation. (November 2014). *Crime in the United States 2013*. Washington, DC: U.S. Department of Justice. Available at: http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/table-32/table_32_ten_year_arrest_trends_totals_2013.xls.

[ii] *Id.*

[iii] Hickenberry, S. and Puzzanchera, C. (December 2014). *Delinquency Cases in Juvenile Court, 2011*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. Available at: http://www.ojjdp.gov/pubs/248409.pdf.

[iv] Arya, Neelum. (2011). *State Trends: Legislative Victories from 2005 to 2010, Removing Youth from the Adult Criminal Justice System*. Washington, DC: Campaign for Youth Justice. Available at: http://www.campaignforyouthjustice.org/documents/CFYJ_State_Trends_Report.pdf.

[v] Juveniles in Corrections. (October 26, 2012). *Statistical Briefing Book, Custody Data (1997-Present)*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. Available at: http://www.ojjdp.gov/ojstatbb/corrections/qa08201.asp?qaDate=2012.

[vi] Minton, Todd D. (June 2013). *Jail inmates at midyear 2013*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. *See also*, Golinelli, D. and Minton, T. (May 2013). *Prison inmates at midyear 2013*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.

[vii] American Civil Liberties Union and Human Rights Watch. (October 2012). *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*. Washington, DC. Available at: https://www.aclu.org/criminal-law-reform-disability-rights/growing-locked-down-youth-solitary-confinement-jails-and.

[viii] Justice Policy Institute (December 2014). *Sticker Shock: Calculating the Full Price Tag for Youth Incorceration*. Washington, DC. Available at: http://www.justicepolicy.org/research/8477. *See also*, Mendel, R. (2011). *No Place for Kids, The Case for Reducing Juvenile Incarceration*. Baltimore, MD: The Annie E. Casey Foundation. Available at: www.aecf.org/noplaceforkids.

[ix] Tony Fabelo et al., (2015) *Closer to Home: An Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms*. Justice Center, Council of State Governments. Available at: http://csgjusticecenter.org/youth/publications/closer-to-home.

Written Statement of
David Stacy
Government Affairs Director
Human Rights Campaign

to the

Committee on Education and the Workforce
United States House of Representatives
Reviewing the Juvenile Justice System and How It Serves At-Risk Youth
October 8, 2015

Chairman Kline, Ranking Member Scott, and Members of the Committee:

My name is David Stacy, and I am the Government Affairs Director for the Human Rights Campaign, America's largest civil rights organization working to achieve lesbian, gay, bisexual and transgender (LGBT) equality. On behalf of our more than 1.5 million members and supporters nationwide, I am honored to submit this statement into the record for this important hearing on "Reviewing the Juvenile Justice System and How It Serves At-Risk Youth." My comments specifically address the risks that lesbian, gay, bisexual, transgender, and questioning youth (LGBTQ) face in the juvenile justice system, and highlights a few of the important issues facing LGBTQ youth.

There are an estimated 3.2 million LGBTQ youth in the United States.[1] LGBTQ youth face unique challenges in the juvenile justice system, including institutionalized bigotry and discrimination. Unfortunately, many LGBTQ youth often end up in the juvenile justice system due to rejection by their family and community, discrimination in school, and bullying and harassment among their peers because of an aspect of who they are – their sexual orientation, gender identity, or gender expression. Given that approximately 15 percent of youth in juvenile confinement facilities identify as LGBTQ[2] – higher than the population of LGBTQ youth in America[3] – it is imperative that Congress address the underlying problems that lead LGBTQ youth to juvenile confinement facilities.

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[1] Christy Malloy et. al., *Ensuring Access to Mentoring Programs for LGBT Youth*, 1 (2014), http://williamsinstitute.law.ucla.edu/wp-content/uploads/Access-to-Youth-Mentoring-Programs.pdf.
[2] Angela Irvine, *We've Had Three of Them: Addressing the Invisibility of Lesbian, Gay, Bisexual, and Gender Nonconforming Youths in the Juvenile Justice System*, 19 Colum. J. Gender & L. 675, 681 (2010).
[3] *See* Pew Research Center, *Teens, Technology and Romantic Relationships: From Flirting to Breaking Up, Social Media and Mobile Phones are Women into Teens' Romantic Lives* (2015), http://www.pewinternet.org/2015/10/01/lesbian-gay-bisexual-and-transgender-teens/ (According to Pew's survey, less than ten percent of the youth surveyed identified as LGBTQ or unsure of their sexual orientation).

School Discipline

According to a 2010 study by the journal, Pediatrics, "nonheterosexual adolescents suffer disproportionate punishments by schools and the criminal-justice system, which implicates not only schools, police, and courts but also other youth-serving health and welfare systems that often fail to meet the needs of nonheterosexual adolescents."[4] Rather than address the situation within the school walls, school administrators involve law enforcement. Often, while LGBTQ youth are labeled as the aggressor, the truth is they are defending themselves from bullying and harassment – inside and outside of the classroom. Although this type of discrimination and bias may be unconscious, the effect has a disproportional impact for LGBTQ youth.

Homelessness and the Underground Economy

Growing up is not easy; it is even more difficult when youth face the prospect of being rejected by their family and community. As the average age of coming out drops, LGBTQ youth are faced with family rejection at a younger, more vulnerable age. As a result, LGBTQ youth experience homelessness at an alarming rate. Roughly 40% of all homeless youth identify as LGBTQ,[5] which far outpaces the percentage of LGBTQ youth in the country.[6] Once on the street, these youth are at increased risk for sexual abuse and exploitation, long-term physical and mental health issues, and substance abuse.[7]

Some LGBTQ youth enter the juvenile justice system after being detained for committing crimes related to homelessness, such as sleeping in a public space.[8] Other LGBTQ youth – when they

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[4] Kathryn E.W. Himmelstein, *Criminal-Justice and School Sanctions Against Nonheterosexual Youth: A National Longitudinal Study*, Pediatrics 49, 55 (2010), http://pediatrics.aappublications.org/content/early/2010/12/06/peds.2009-2306.full.pdf.

[5] *See generally* Laura Durso and Gary Gates, *Serving Our Youth: Findings From a National Survey of Services Providers Working with Lesbian, Gay, Bisexual and Transgender Youth* (2012), http://williamsinstitute.law.ucla.edu/wp-content/uploads/Durso-Gates-LGBT-Homeless-Youth-Survey-July-2012.pdf.

[6] Soon Kyu Choi, *Serving Our Youth 2015: The Needs and Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth Experiencing Homelessness*, 9-10, http://williamsinstitute.law.ucla.edu/wp-content/uploads/Serving-Our-Youth-June-2015.pdf.

[7] *See generally* Juvenile Detention Alternatives Initiative, *Lesbian, Gay, Bisexual and Transgender Youth in the Juvenile Justice System* (2015), http://www.aecf.org/m/resourcedoc/AECF-lesbiangaybisexualandtransgenderyouthinjj-2015.pdf.

[8] Jerome Hunt and Aisha Moodie- Mills, *The Unfair Criminalition of Gay and Transgender Youth*, 3 (2012), https://cdn.americanprogress.org/wp-content/uploads/issues/2012/06/pdf/juvenile_justice.pdf.

have nowhere to turn to meet their basic needs, participate in an underground economy in order to survive.[9] This includes engaging in sex work or couch surfing in exchange for sex.[10]

Rather than being a beacon of hope, homeless shelters for some LGBTQ youth can represent places of danger and discrimination. Programs that are designed to keep LGBTQ youth off the street may be ill-equipped to handle the unique issues that LGBTQ youth face because of institutional prejudice and lack of cultural competency training. As a result, LGBTQ youth run away from these programs rather than embrace them.[11]

It is imperative that Congress craft solutions to keep this vulnerable population off the streets and safe.

Sexual Assault and Violence

LGBTQ youth are at a disproportionate risk of sexual abuse and assault in confinement. The Prison Rape Elimination Act (PREA) is a federal law aimed at reducing sexual assault and violence in confinement facilities. PREA was enacted in 2003 – more than a decade ago – and yet LGBTQ youth continue to experience overwhelming levels of sexual victimization. According to a 2012 survey by the Department of Justice,[12] LGBTQ youth experience sexual victimization at more than ten times the rate of their non-LGBTQ peers. In some cases, LGBTQ youth are subject to discrimination and stigma by being separated from the general population. [13]

LGBTQ youth should be housed safely, without fear that their sexual orientation or gender identity will make them consistent targets for bullying, harassment, and assault.

Recommendations

Approximately 300,000 LGBTQ youth are arrested and/or detained each year.[14] The effects of confinement can have lasting physical and mental effects on youth. Policy solutions at the

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[9] *Id.*

[10] The Urban Institute, *Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex*, 6 (2015), www.urban.org/sites/default/files/alfresco/publication-pdfs/2000119-Surviving-the-Streets-of-New-York.pdf.

[11] *Id., supra* note 8, at 2.

[12] Allen J. Beck et. al, Bureau of Justice Statistics, *Sexual Victimization in Juvenile Facilities Reported by Youth*, 21 (2012), http://www.bjs.gov/content/pub/pdf/svjfry12.pdf.

[13] The Equity Project, *Hidden Justice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts*, 12 (2009), http://www.equityproject.org/wp-content/uploads/2014/08/hidden_injustice.pdf.

[14] *Id., supra* note 8, at 1.

federal level are key to improving outcomes for LGBTQ youth in juvenile justice and stopping the cycle of confinement before it happens.

- **Pass the Equality Act**
  The Equality Act would establish explicit, permanent protections against discrimination based on an individual's sexual orientation or gender identity in matters of employment, housing, public services and places, federally funded programming, credit, education, and jury service. Protecting LGBTQ youth from discrimination in federally funded juvenile confinement facilities – as well as in all youth serving programs and schools – is a significant first step in ensuring equal access and treatment for this vulnerable population.

- **Ensuring Greater Cultural Competency**
  Due to the unique issues that LGBTQ youth face, including heightened risk of sexual assault, violence, bullying, and harassment, staff at juvenile confinement facilities should be given greater cultural competency training to serve LGBTQ youth. In addition, professionals who are serving in juvenile confinement facilities should have experience addressing the unique needs of LGBTQ youth.

- **Addressing Sexual Assault and Violence**
  The Prison Rape Elimination Act (PREA) established a zero tolerance standard for sexual assault in confinement facilities. It is essential that states expeditiously adopt and achieve full compliance with the requirements under PREA and federal agency regulations.

- **Pass Legislation that Protects LGBTQ Students**
  The disproportionate bullying and harassment that LGBTQ students face can lead to harmful situations and disciplinary issues that progress to the juvenile justice system. The federal government can help address this problem by passing the Safe Schools Improvement Act (SSIA), which would require school districts in states that receive federal funding to adopt codes of conduct specifically prohibiting bullying and harassment, including on the basis of race, color, national origin, sex, disability, sexual orientation, gender identity, and religion. SSIA would also require that states report data on bullying and harassment to the Department of Education, which is vital to understanding if the situation for LGBTQ students in school is improving or worsening.

- **Reauthorize the Juvenile Justice Delinquency and Prevention Act (JJDPA)**
  The Juvenile Justice Delinquency and Prevention Act (JJDPA) was enacted in order to aid state and local efforts to prevent delinquency and improve the juvenile justice system.

Unfortunately, the law has not been reauthorized since 2002. Congress must pass an updated law that addresses the unique issues that LGBTQ youth face – including some that have been addressed above. For example, the 2002 version of the law requires states to address racial and ethnic disparities in the juvenile justice system. A new version of the law should require states to also address the disparities that LGBTQ youth face in the juvenile justice system.

- **Data Collection for LGBTQ Youth**
  It is difficult to comprehensively address these problems without sufficient data to assess progress. The Department of Education, the Department of Justice's Office of Juvenile Justice and Delinquency Prevention, and relevant agencies should collect authoritative data on the number of LGBTQ youth in America as well as the number of LGBTQ youth in juvenile confinement. This data will help to better address the strategies necessary for reducing the level of LGBTQ youth in the juvenile justice system.

- **Re-entry into Society**
  For LGBTQ youth, re-entering the community after being confined poses significant challenges. It is vital that the federal government support programs and services for LGBTQ youth who are rejected from their family, as well as services that will help LGBTQ youth integrate back into school and, when necessary, into foster care.

  For example, when LGBTQ youth are being released into the custody of foster care, they should be placed in a supportive environment. If youth are being released to family, there should be no concern that the youth's sexual orientation or gender identity would cause estrangement or rejection from the individual's family that would potentially lead to a young person becoming homeless. Juvenile confinement facilities, courts, and social workers should address these issues before releasing an LGBTQ youth from confinement.

I appreciate the opportunity to offer this testimony and urge Congress to act to address the disproportionate rate of LGBTQ youth in the juvenile justice system.

Written Testimony Submitted for the Record on behalf of the National Indian Education Association

to the

United States House of Representatives Committee on Education and the Workforce

Regarding the October 8, 2015 hearing entitled "Reviewing the Juvenile Justice System and How it Serves At-Risk Youth"

Introduction. Thank you Chairman Kline and Ranking Member Scott for this opportunity to submit testimony for the record on behalf of the National Indian Education Association (NIEA) regarding the hearing "Reviewing the Juvenile Justice System and How it Serves At-Risk Youth." Founded in 1969, NIEA represents Native students, educators, families, communities, and Tribes. NIEA's mission is to advance comprehensive educational opportunities for all American Indians, Alaska Natives, and Native Hawaiians throughout the United States. As the premiere organization advocating for Native students, NIEA works to achieve educational equity and excellence, as well as to ensure that all students are provided high-quality academic and cultural education.

Native youth have one of the highest rates of incarceration, compared with their non-Native peers. Because Native youth are disproportionately represented in both adult prisons and juvenile detention centers, decisions about juvenile justice and related appropriations have a significant impact on Indian Country and on the next generation of Native peoples. NIEA welcomes the Committee's attention to juvenile justice issues and discussions regarding the reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDPA). We urge the Committee to increasing funding for Indian Country in any JJDPA reauthorization and to support provisions to reduce incarceration for status offenses, reduce racial and ethnic disparities, and increase trauma-informed and community-based approaches to juvenile justice. NIEA also encourages the Committee to support related efforts, including increasing education funding for Native youth, and particularly for Native youth incarcerated in the 24 detention centers funded by the Bureau of Indian Affairs (BIA). Without access to educational resources, the Native youth in these BIA-funded detention centers sit idly and fall even further behind their peers. Education is critical to preventing Native youth from entering the criminal justice system as well

as to rehabilitating the disproportionate number of Native children that are incarcerated in Federal, State, and Tribal facilities.

Native Youth Are Incarcerated at Disproportionate Rates. Native youth are disproportionately represented in State juvenile justice systems. They are nearly twice as likely to be petitioned to State court for status offenses, such as truancy or underage drinking.[1] They are also less likely to be given probation and more likely to be incarcerated or detained,[2] with nearly three times the rate per capita of Native youth in State residential placements as White juveniles.[3] Because of the Federal government's unique jurisdiction in Indian Country, Native youth are also disproportionately represented in Federal facilities despite the fact that the Federal system does not have a juvenile division and the Federal Bureau of Prisons lacks juvenile detention facilities.[4] For instance, between 1999 and 2008, 43–60 percent of juveniles in Federal custody were Native.[5] The Indian Law and Order Commission described the situation as follows:

> Tribal youth in non-P.L. 83-280 jurisdictions become ensnared in a Federal system that was never designed for juveniles and literally has no place to put them. In P.L. 83-280 jurisdictions, Tribal youth may be thrust into dysfunctional State systems that pay no attention to the potential for accountability and healing available in the Tribal community. ... These and other shortcomings of the Indian country juvenile justice system compromise traumatized, vulnerable young lives, rupture Native families, and weaken Tribal communities that depend on their youth for their future.[6]

Meanwhile, many Tribes lack juvenile facilities. Those Tribes that do have such facilities or other programs to address juvenile justice issues rely on woefully inadequate Federal dollars to support comprehensive, culturally based programs.[7]

In addition to being incarcerated at disproportionate rates, detained and incarcerated Native youth also have distinct needs. Native children are exposed to violence at alarmingly high rates, suffering from levels of post-traumatic stress disorder (PTSD) equal to or higher than military personnel returning from the Middle East.[8] Native youth also experience suicide rates twice as high as their non-native peers.[9] Culturally based alternatives to detention and resources

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[1] Coalition for Juvenile Justice and Tribal Law and Policy Institute, *American Indian/Alaska Native Youth & Status Offense Disparities: A Call for Tribal Initiatives, Coordination & Federal Funding* at 1 (2015), available at http://www.cwla.org/joint-briefing-paper-highlights-tribal-disproportionality-in-juvenile-justice/.
[2] *Id.*
[3] Indian Law & Order Commission, "Juvenile Justice: Failing the Next Generation," *A Roadmap for Making Native America Safer* at 157 (Nov. 2013) ("In 2010 in the State systems, American Indians made up 367 of every 100,000 juveniles in residential placement, compared with 127 of 100,000 for White juveniles."), available at http://www.aisc.ucla.edu/iloc/report/files/Chapter_6_Juvenile_Justice.pdf.
[4] *Id.*
[5] *Id.*
[6] *Id.* at 159.
[7] *See, e.g.*, Sari Horwitz, *From Broken Homes to A Broken System*, WASHINGTON POST (Nov. 28, 2014), http://www.washingtonpost.com/sf/national/2014/11/28/from-broken-homes-to-a-broken-system/.
[8] Indian Law & Order Commission, *supra* at 151.
[9] Coalition for Juvenile Justice and Tribal Law and Policy Institute, *supra* at 31.

to heal and rehabilitate children who are detained or incarcerated are critical to the survival of Tribal communities. Educational programs and resources both in and outside of the detention context play an essential role in this process.

Given the reality facing Native youth in State, Federal, and Tribal detention facilities, NIEA welcomes the discussion regarding reauthorization of the JJDPA and supports efforts to decrease incarceration for status offenses, reduce racial and ethnic disparities in juvenile detention, support community-based alternatives to detention, provide a trauma-informed continuum of programs to address the needs of at-risk youth, and provide grants to Tribal programs. However, NIEA urges the Committee to support increased funds for Indian Country. Under the current JJDPA, the funding for all of Indian Country is only equal to the amount apportioned for one state.[10] This is simply inadequate to meet the enormous needs of Tribal juvenile justice programs. We fully support the Tribal Youth Program that has been proposed by the National Congress of American Indians as a way for the JJDPA to ensure stable funding for tribal programs.[11] Additionally, NIEA requests that the Committee pay particular attention to the role of education in rehabilitating Native youth and preventing Native youth from entering the criminal justice system.

Incarcerated Native Youth in Federally Funded Facilities Lack Education Resources. The Indian Law and Order Commission reported that the Bureau of Indian Affairs (BIA) Office of Justice Services (OJS) confirmed that "Congress has not appropriated any Federal funds [for secondary educational services] in recent years. This means that Native children behind bars are not receiving any classroom teaching or other educational instruction or services at all."[12]

Prior to 2012, approximately $620,000 was provided in the Department of Interior budget for education services at BIA-funded juvenile detention facilities. Although this was an extremely small amount given then need for educational services, these funds helped fill a critical gap in the 24 BIA-funded juvenile detention facilities. Since 2012, however, this account has not been funded. In some facilities, this has meant that detained and incarcerated Native children lack all access to educational services. Classrooms literally sit empty because there is no funding to provide instruction.[13] Detained and incarcerated children languish in these facilities, as they fall further and further behind their already struggling peers, placing them at an even greater disadvantage than other Native children when they return to school.

Meanwhile, we know that one of the best methods to rehabilitate individuals and reduce recidivism is through education. Education builds self-esteem for these struggling youth and provides something productive for them to focus their energies on during their detention. Tribes have repeatedly requested the restoration of funding for juvenile detention education. The House Interior Appropriations Report recently responded to these requests by providing that its budget recommendation "includes $1,000,000 to restore juvenile detention education program grants."

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[10] *See* National Congress of American Indians, Testimony for Senate Committee on Indian Affairs: Juvenile Justice in Indian Country (July 14, 2015), http://www.ncai.org/resources/testimony/ncai-testimony-for-senate-committee-on-indian-affairs-juvenile-justice-in-indian-country.
[11] *See id.*
[12] Indian Law & Order Commission, *supra* note 3 at 155.
[13] Horwitz, *supra* note 7.

H. Rep. 114-170. Although the budget process is currently stalled, we request that the Committee support future efforts to restore this vital funding and to provide other educational resources to Native children in BIA-funded juvenile detention centers and other Federal facilities.

The State of Emergency in Native Education and the Federal Trust Responsibility. The lack of educational resources in BIA-funded and Federal facilities is particularly worrisome given the Federal government's trust responsibility for Native education and the current state of emergency for Native students.

Established through treaties, federal law, and U.S. Supreme Court decisions, the Federal government's trust responsibility to Tribes includes the obligation to provide educational access to all American Indian and Alaska Native students. This obligation is a shared responsibility between the Executive and Congress. Despite the pressing need for funding parity and equal access, historical funding trends establish that the Federal government has been abdicating its trust responsibility by decreasing Federal funds to Native-serving programs by over half in the last 30 years. Funds for juvenile detention education have been one of the many casualties of this trend. Native students have been wholly abandoned in BIA-funded juvenile detention centers and in Federal facilities.

The disproportionate representation of Native youth in detention centers combined with the lack of educational resources compounds the current state of emergency that exists in Native education. Interior Secretary Sally Jewell has stated, "Indian education is an embarrassment to you and to us."[14] Native students are not experiencing the improvement in graduation rates applauded in the rest of the country. Native graduation rates are the lowest of any racial/ethnic group, at around 67 percent. Bureau of Indian Education (BIE) rates are even worse, hovering around 50 percent. Native students also continue to lag behind their peers on other important indicators, such as reading and math skills.[15]

The current crisis in Native education exemplifies the United States' failure to fulfill its trust responsibilities to Native youth, and nowhere is this reality more stark than for Native children that are detained and incarcerated. Further, keeping Native children out of the criminal justice system will require sustained support for Native education more generally. NIEA requests that the Committee support initiatives to adequately fund K-12 educational programs for Native youth, including Local Education Agency Grants under Title I of the Elementary and Secondary Education Act (ESEA), the State-Tribal Education Partnership (STEP) Program, Impact Aid under ESEA Title VIII of the ESEA, Indian Education Formula Grants and Indian Education Language Immersion Grants under ESEA Title VII, Tribal Education Agencies, facilities operation and maintenance for BIE schools, and other initiatives focused on improving outcomes for Native youth. Addressing the current crisis in Native education is vital to keeping Native youth out of the criminal justice system and reducing recidivism.

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[14] Hearing before the Committee on Indian Affairs, S. Hrg. 113-92 (May 15, 2013).
[15] See the Institute of Education Sciences, *National Indian Education Study*, http://nces.ed.gov/nationsreportcard/nies/.

Conclusion. NIEA thanks the Committee for its attention to juvenile justice issues and for addressing the reauthorization of the JJDPA. As the Committee continues its deliberations, we urge it to keep in mind the enormous impact that juvenile justice policy and related funding decisions have on the Native children that are disproportionately represented in State, Federal, and Tribal facilities. We request that the Committee support increased funding for Tribal juvenile justice programs in any JJDPA reauthorization as well as supporting provisions to reduce incarceration for status offenses and increase trauma-informed and community-based approaches to juvenile justice. Additionally, we urge the Committee to support initiatives to address the lack of educational resources for Native youth in Federally funded facilities and to support funding for Native education more generally to prevent our young people from entering or reentering the criminal justice system.

For additional information, please contact NIEA Federal Policy Associatc Dimple Patel at dpatel@niea.org or 202-544-7290.

Yasmina Vinci, Executive Director, National Head Start Association
U.S. House Committee on Education and the Workforce

Strengthening Head Start for Current and Future Generations

Thank you for the opportunity to submit testimony for the record related to the "Strengthening Head Start for Current and Future Generations" hearing held on Wednesday October 7th. The hearing, following the Committee's request for public comments on how to strengthen Head Start in the spring of 2015, provided an important and revealing discourse that exemplified the Committee's commitment to Head Start and to the vulnerable children and families we serve. As 2015 marks the 50th Anniversary for Head Start, there could not be a more important time for the Committee to begin thinking about how to strengthen and grow Head Start so that children today, tomorrow, and in another 50 years are given the opportunity to succeed in school and in life.

The following statement is respectfully submitted on behalf of the National Head Start Association (NHSA) to clarify and reiterate several points that were raised during the hearing. NHSA believes that every child, regardless of circumstances at birth, has the ability to succeed in life if given the opportunity that Head Start affords children and their families. We are the national voice of the more than a million children, 200,000 staff, and 1,700 grantees in the Head Start and Early Head Start program annually. Head Start and Early Head Start represent a national commitment to provide quality early learning opportunities for the children who are most at-risk and who, it has been proven, benefit the most from early learning experiences.

Parent and Family Engagement

Throughout the hearing, it was very clear that Committee members, both Democrats and Republicans, recognize and celebrate Head Start's unique and effective role of engaging and involving parents. One of the most critical conditions for the life success of young children is the engagement of their families. Parents are a child's first and most important teacher, yet most education programs in our country view parent participation and partnerships as a low priority. As several members of the Committee and all of the witnesses agreed, Head Start is the exception and has been the leader in involving and engaging parents over the past fifty years.

Head Start programs recognize that long term success for young children must include working with and engaging the child's family. Following the Head Start standards for family engagement, programs accomplish this in many ways. For example, family service workers support families to develop family plans; find appropriate medical and dental homes for their children; and reinforce children's educational development at home. To promote a more stable

family life, families are connected to TANF, LIHEAP, employment support, and other safety net services as needed. Head Start programs also work with families to become effective advocates for their children in the K-12 school system and beyond. This model of family engagement is essential to children's success, and should be adopted by all early learning and even elementary school programs. As an existing strong practice, it must remain a priority for Head Start as Congress looks towards a reauthorization.

Local Flexibility and High Standards

A second important theme, which was echoed by many Committee members and the witnesses during the hearing, is the need for local flexibility and local control while simultaneously maintaining a high bar for quality. The 2007 reauthorization of Head Start, while making strides in improving many aspects of quality, has unfortunately led to an overwhelming and detrimental focus on compliance. The challenge for policy makers, as in many other programs, is finding the appropriate balance of compliance and flexibility – ensuring that programs are providing the highest possible quality of services, but also that they are granted the flexibility to address the unique needs and challenges of their respective communities.

Since its inception, Head Start funds have flowed directly from the federal government to community-based Head Start providers in the form of grants. This model is the epitome of local control and accountability. It ensures a baseline of consistent quality across the country, but allows programs to tailor their services to fit their communities' needs. This is accomplished by allowing locally designed program options to be based on (1) Head Start Performance Standards and (2) an extensive triennial community needs assessment. Local grantees form partnerships with community businesses, local /state governments, school districts, non-profit organizations, and safety net providers to help design and customize their program in order to specifically benefit the children and families they serve. This combination of federal accountability and local flexibility and control is a particularly valuable aspect of a national program that reaches low-income children and parents in urban, suburban, and rural environments, on Indian reservations and in migrant worker populations, each of which have their own unique assets and challenges. It is critical that Congress recognize and support this model in the next reauthorization by maintaining strong uniform standards while simultaneously allowing communities to design and run their programs based on the needs of their respective communities.

Changes Since the Last Reauthorization

During the hearing, several Members of the committee, including both Chairman Kline and Ranking Member Scott, made note of the changes that Head Start has made since the program was last reauthorized in 2007. However, the conversation on the changes largely skipped over the specific improvements that Head Start has made over the last eight years. The majority of

these reforms were a direct result of the *Improving Head Start for School Readiness Act of 2007*, which passed with overwhelming bipartisan support. While several of these changes had begun to be implemented as early as 2008, the most significant changes occurred between 2010 – 2013.

First, the Office of Head Start announced and implemented "The Head Start Roadmap to Excellence." The roadmap set the vision and priorities of the Office of Head Start specifically focusing on developing a stronger Child Outcomes Framework, a more responsive and thorough Training and Technical Assistance network, and a pathway to excellence for all of Head Start and Early Head Start. Following the initial improvements made by the roadmap, the Office of Head Start has also created a new Aligned Monitoring System, issued the Early Head Start and Child Care partnership grants, and moved all Head Start grantees into a five year grant process.

Second, as a result of a GAO report uncovering inconsistencies in enrollment practices, the Office of Head Start began conducting unannounced monitoring visits of Head Start and Early Head Start programs in the summer of 2010. The unannounced visits focus on a few different areas of compliance and are in addition to the regular exhaustive triennial review process for Head Start and Early Head Start programs. Subsequent reporting from HHS and GAO shows that steps have been taken to clarify and strengthen the regulations, and that programs have shown marked improvements in this key accountability measure.

Finally, and most significantly, the Office of Head Start has created and implemented the Designation Renewal System, as mandated by the 2007 Head Start Act. The DRS, also known as re-competition, is a process by which grantees that are not considered the highest performing will not have their grant automatically renewed at the end of its term (every 5 years). The grant for that service area is available through an open competition, meaning that any provider in the community, including the current grantee, can apply for the grant. The first round of competitions took place in the summer of 2012 and there have now been four cohorts of competition as more than 30 % of all grantees have competed for their grants. While this is arguably the biggest and most impactful reform to Head Start since the creation of Early Head Start, it is clear that the system has flaws in its administration and Congress must make changes to the current system in the next reauthorization. NHSA has outlined several of these changes in letters to the Secretary of HHS and will continue working with the Committee to see them made.

The other significant reforms that were developed in the *Improving Head Start for School Readiness Act of 2007* are listed and described below:

Teacher Certification

The Act dictated that by September 30, 2012 at least 50% of Head Start teachers have a BA or advanced degree in early childhood, or in a related area with pre-school teaching experience. In addition, 100% of teachers who did not have a BA (or advanced degree) had to have at an Associate's degree by 2011. Stricter qualifications were also created for Education Coordinators and Head Start teacher assistants. These requirements were intended to provide Head Start children with high quality educational experiences; as research indicates that the highest outcomes for children are associated with BA teachers. Despite a number of barriers, by 2014, 72% of Head Start teachers nationally had reached these new, higher standards, and that number continues to grow.

MOUs with Local School Districts

As of December 12, 2008, each Head Start program was required to enter into a Memorandum of Understanding with its local school district(s). These agreements allow programs and schools to work together to ensure that children and families transition smoothly to kindergarten and that children with disabilities are quickly identified and have their needs met. Complimentary requirements for Local Educational Agencies (LEA's) are not currently enacted into law, but both the House and Senate passed ESEA reauthorizations include important provisions ensuring both Head Start and LEA's must have agreements.

CLASS Assessment Tool for Classroom Improvement

As described above, while the Office of Head Start has long had the power to defund failing programs, the Act called for concrete measures by which to identify low functioning programs. In addition to the various financial management-related standards programs must meet, the CLASS assessment tool was introduced as one way of identifying high and low quality programs by evaluating teacher-child interactions, and has informed professional development across the Head Start system. On a survey conducted by NHSA in spring 2012, 92% of responding programs reported using the CLASS tool.

Population

While Head Start has historically served the most vulnerable children, the 2007 Act made homeless children categorically eligible, regardless of income. As a result, the number of homeless children served nearly doubled from 2007 to 2012, to almost 50,000 children – and that number continues to grow. The Act also enabled programs to propose to convert preschool age slots to infant and toddler slots, which allowed them to flexibly respond to need in their communities, especially where state pre-K was able to serve greater numbers of older children.

Scientifically Valid Curricula

While Head Start programs had always striven for excellence, the Act explicitly stated that all programs implement scientifically valid curricula. This stipulation ensures that children's learning experiences are of the highest quality and are age and developmentally appropriate.

Centers of Excellence

Since 2010, twenty programs across the country have been designated as Centers of Excellence and have received funding to disseminate their innovative and effective practices in the areas of social-emotional support, parent engagement, teacher mentoring and curriculum development.

These extensive reforms have had program quality improvement as a major goal, and as a result of their implementation, Head Start and Early Head Start lead in delivering high quality early childhood education for children and families with income below the federal poverty guidelines, and other vulnerable children (special needs, homeless, English Language Learners, migrant, foster children, and others).

Comprehensive Services

One final theme that was not discussed at much length during the hearing is the critical importance of the comprehensive services that Head Start provides to children and their families. Head Start children and families have extensive and challenging needs that are real barriers to success in school and in life. Many also lack access to basic services that help their more advantaged peers prepare to learn. For a successful intervention designed to get children and families ready to learn, programs must address these needs through a variety of services. These services, including health, dental health, mental health, nutrition, and safety, can be costly, but are absolutely integral to healthy brain development and later success in life. To be able to learn, children have to be healthy. Children cannot be ready to learn if they are hungry, cannot see a chalkboard, or cannot hear the teacher. In tailoring the intervention to each child's needs, the Head Start model recognizes physical development and health, and social and emotional development as key domains necessary for learning. These domains and the comprehensive services that support them are the foundations of school readiness and invaluable to any effective early learning intervention. It is critical that a reauthorization of Head Start strengthens programs' abilities to offer, provide, and connect families to these services.

In conclusion, NHSA and the entire Head Start community would like to thank and applaud Chairman Kline, Ranking Member Scott, and the members of the Committee for holding the hearing on October 7, 2015 about the future of Head Start. We look forward to working together to strengthen Head Start and ensure that all vulnerable children and families have what they need to succeed in school and in life.

Chairman KLINE. It is now my pleasure to introduce our distinguished witnesses, but I want to make an administrative announcement. We have a hard stop here this morning. This is somewhat unusual, but these are somewhat unusual times, at least on this side of the aisle. We have a hard stop at 11:45. So I'll be encouraging my colleagues to move with alacrity.

So our witnesses today, we have Mr. Derek Cohen. He's the deputy director for the Center for Effective Justice at the Texas Public Policy Foundation in Austin, Texas. Mr. Cohen has presented several papers to the American Society of Criminology, the Academy of Criminal Justice Sciences, and the American Evaluation Association on the implementation and outcomes of various criminal justice policy issues, including juvenile justice.

Mr. Sloane Baxter is a youth advocate here in Washington, D.C. Mr. Baxter received help and healing at Boys Town's family-style, community-based therapeutic residential program after referral from the juvenile justice system. While at Boys Town, he participated with other system-involved youth in publishing a collaborative book of poetry, entitled "Concrete Dreams." Mr. Baxter successfully graduated high school and currently works full time as a coffee barista and runs his own home improvement business.

The Honorable Steven Teske serves as the chief judge of the Juvenile Court of Clayton County in Jonesboro, Georgia. In 2012, Judge Teske was appointed to the Criminal Justice Reform Council focusing on reforms to juvenile justice in Georgia. He is a past president of the Council of Juvenile Court Judges of Georgia and is a member of the board of trustees of the National Council of Juvenile and Family Court Judges.

Dr. Tim Goldsmith is chief financial officer with Youth Villages in Memphis, Tennessee. Dr. Goldsmith has direct responsibility for the clinical research placement services and performance improvement departments at Youth Villages, an intensive youth diversion and intervention services program, and has been directly involved in the development and implementation of evidence-based programs at Youth Villages.

I will now ask our witnesses to please stand and raise your right hand.

[Witnesses sworn.]

Chairman KLINE. Let the record reflect the witnesses answered in the affirmative.

Before I recognize each of you to provide your testimony, let me briefly explain our lighting system. We allow 5 minutes for each witness to provide testimony. When you begin, the light in front of you will turn green. When 1 minute is left, the light will turn yellow. At the 5 minute mark, the light will turn red and you should wrap up your testimony as quickly as you can.

This high-tech hearing room that we've got here in the Visitor Center actually gives you a clock, so you can take a look at that as well.

When we get to questions from members of the committee, we are going to limit that time to 4 minutes instead of 5 minutes because of the hard stop we've got here. So if you will start to edit your questions now, that would be good.

Mr. Cohen, you're recognized.

TESTIMONY OF MR. DEREK COHEN, DEPUTY DIRECTOR, CENTER FOR EFFECTIVE JUSTICE, TEXAS PUBLIC POLICY FOUNDATION, AUSTIN, TX

Mr. COHEN. Thank you, Mr. Chairman and the rest of the committee, for inviting me here today. My name is Derek Cohen. I'm the deputy director for the Center for Effective Justice at the Texas Public Policy Foundation and in our Right on Crime campaign. We thank Chairman Kline and the committee for taking up this important issue.

While not the widely most understood element of public policy, juvenile justice is certainly one of the most critical. In Texas alone, it costs us eight times what it costs to incarcerate an adult to incarcerate a juvenile. In the community, that is four and a half times. These costs per day pale in comparison when taking into account the potential long-run expenses associated with repeat offending costs reasonably expected to accrue if the juvenile criminal's activity continues unabated.

The malleability of juveniles' behavior, however, offers great potential for rehabilitation and great potential for the youth to be diverted from a life of crime.

Like its adult counterpart, too, juvenile justice has experienced a rampant uptick in the application of law and formalized proceedings to address behavior of dubious criminal blameworthiness. This is experienced twofold by juveniles, as they are subject not only to the prevailing criminal law, but also to a body of status offenses, actions not criminal if committed by an adult, like truancy, incorrigibility, or running away, and so on. While not traditionally criminal in nature, these offenses still might land a juvenile behind bars.

The valid court order, or VCO, exception included in previous reauthorizations of the Juvenile Justice and Delinquency Prevention Act permit the confinement of status offenders for failing to honor a court order mandating they do not commit the specific reoffense. Not only does this confinement of status offenders cost precious resources and limited juvenile compliant bed space, it often fails to address the root causes that triggered that offense in the first place. Further, it suggests that the State's role is to intercede with disciplinary issues traditionally reserved for family and the community.

In 2013, an estimated 2,524 youth were detained with the most serious crime being a status offense during a 1-day census. An analysis of the data-gathering method conducted by us at the Texas Public Policy Foundation suggests that this estimate may actually underestimate the total by 3.68 times, the true number of status offenders being confined over the course of a year being closer to 8,404. Removal of this exception from future reauthorizations of the Juvenile Justice and Delinquency Prevention Act should strongly be considered.

We've made key reforms to our juvenile system in the State of Texas and produced noteworthy results in State-level commitments and general expenditures on juvenile justice. Each session, legislators have implemented reform, some minor, some major, that prioritize community-based treatment alternatives to costly incarceration, and the bill that went through this session aimed on

keeping juveniles closer to home. This bill is estimated to save tens of millions of dollars over the next 5 years, as well as produce better outcomes in recidivism.

In the fiscal year 2006, 2,738 juveniles were committed to secure facilities in Texas. By fiscal year 2013, the number of commitments had dropped to 818, a drop of over 70 percent. This drop allowed the State to close or consolidate seven facilities.

These reforms were attended by a commensurate drop in nominal spending, with State expenditures on juvenile justice being the lowest it's been since fiscal year 2001, a drop of 16 percent from 2005 to 2012 alone.

If done properly, juvenile justice policy can intervene in a nascent criminal career, preventing future victimization at the hands of the offenders and drains on law enforcement and correctional resources. However, selecting and implementing these practices must be left to the respective States who stand to gain both financially and socially from getting it right.

Thank you, sir.

[The testimony of Mr. Cohen follows:]

Written Testimony of Derek M. Cohen
Deputy Director, Right on Crime
Deputy Director, Center for Effective Justice
Texas Public Policy Foundation

As a conservative public policy think tank, the Texas Public Policy Foundation has a keen interest in juvenile justice policy. Juvenile justice is a costly endeavor. In many states, the relative scarcity of juvenile offenders and service-intensive focus lead to greater per-offender costs than its adult counterpart. Further, juvenile offenders offer great potential for rehabilitation and diversion from a persistent criminal lifestyle. We thank Chairman Kline and the committee for examining this critical issue.

Juvenile Justice in the States

Although having an altruistic, child-saving orientation and history, the current state of the juvenile justice system seems almost assembled by committee. Rooted in the doctrine of *parens patriae*, the juvenile court was originally set out to act as a "parent" for wayward youths and those whose families have failed them. However, amongst the court-driven due process advances of the 1960s, the role of the court as protector was found wanting. Cases that carried to the US Supreme Court found that state-level juvenile courts obfuscated much of the constitutionally guaranteed due process provisions. In the years following, the juvenile court has wholly begun to more closely resemble its adult counterpart.

The primary difference in between the juvenile and adult court system is one of aims. Whereby the adult systems seeks to mete out adequate punishment for the crime committed, the juvenile justice system still focuses on the effective implementation of rehabilitative treatment and delivering its wards to this treatment.

Unfortunately, many youths are sent to the adult criminal court for disposition, either by statutory boundaries or waiver processes. Once in the adult court, appropriate rehabilitative modalities at the disposal of the bench are far more limited than in a juvenile court. Further, inconsistencies amongst and in states regarding processing and sentencing of juveniles has led to the concept of "justice by geography," where a delinquent act may be punished radically different in one jurisdiction as opposed to another due to the structure of the local laws and court system.

In 2013, it is estimated that 54,148 juveniles were held in residential placement nationwide, roughly half of the number held in 1999.[i] This prevailing drop both preempts and outpaces the recent reductions seen in the adult corrections system. Of these, a reported 2,524 youth were detained with the most-serious crime being a status offense.[ii] However, an analysis conducted by the Texas Public Policy Foundation estimated that this number may underestimate the true number of confined status offenders of the course of the year by a factor as high 3.6.[iii]

Age of Juvenile Court Jurisdiction

With its key emphasis on rehabilitation reintegration, the juvenile justice system categorically produces better outcomes for public safety and young offenders than does the adult system. Still, many juvenile offenders find themselves in the adult criminal justice system under statutory definitions of the age of criminal responsibility or through judicial or prosecutorial action.

For most individuals, the human brain has not reached full development until about 25 years of age. This latent development is not problematic *per se*, though the disparate rate different regions of the brain develop is. The two *nucleuses accumbens* (one in each hemisphere) are more substantially developed in early adolescents. The *nucleus accumbens* facilitates reward response (i.e., provides a dopaminergic release) when certain behaviors are undertaken.

However, this outpaces the development of the prefrontal cortex, the brain area associated with impulse control, delayed gratification, and other executive-level "adult" functions. Simply put, the average adolescent brain has an unfortunate structure that demands reward, though lacks the ability to regulate reward-seeking behaviors. As such, it is not uncommon to see minor deviance amongst youth, though that deviance often stops in the individual's early twenties.[iv]

Further, studies have shown that traumatic experiences (those reasonably expected to be experienced in secure incarceration with an adult facility) have an extremely detrimental effect on the developing brain. Future deviance, aggression, and low self-control are correlated with having experienced trauma earlier in life.

Similarly, the adolescent brain as a "work in progress" bodes well for rehabilitative approaches. The brain's malleability at this stage makes the individual prime for appropriate intervention. However, this nuance underscores the need for appropriate risk classification and program assignment. Assigning low-risk youth to interventions intended for and attended by high-risk offenders can be just as damaging as the incarceration experience.

The bulk of the scientific literature on the matter has shown that when compared to similarly-situated offenders, youth who are transferred into the jurisdiction of the adult court routinely have worse outcomes than do those who are not. These studies look at youth via post hoc comparison or quasi-experimental design and identify the aggregate differences in outcome between the two groups. Youth handled by the adult criminal court and in adult correctional facilities routinely have higher rates of victimization while incarcerated, higher recidivism rates upon release, and even an elevated risk of suicide.

In addition to the divergent outcomes from the two jurisdictions, 17 year-olds in many states are still subject to compulsory attendance laws. Juvenile probation, with its close relationship to the schools, is better arrayed to keep the offender in school and on a path to success. Further, the juvenile system is more adept at interfacing with parents. A 17 year-old

processed in the adult system precludes parental involvement, whereas the juvenile courts, juvenile probation, and even juvenile secure facilities encourage and solicit parental involvement, a key element in reforming the child.

There is a panoply of community-based rehabilitative modalities that target young offenders and at-risk youth. Functional Family Therapy and Multi-systemic Therapy are promising avenues for dealing with at-risk youth. In dealing with youth post-adjudication, cognitive-behavioral therapies (CBT) (those which target "criminal thinking errors" and other criminogenic risk factors) have shown broad success. It is important to note that CBT programs, just like other forms of rehabilitation, are most effective with high-risk offenders. Care should be taken not to over-sentence (and by extension over-treat) low-risk youth as doing so often leads to negligible or counterproductive outcomes.

A case handled in the juvenile justice system is almost universally more expensive in terms of upfront costs than one handled in the adult system. This is largely due to the relatively robust economy-of-scale that exists in adult corrections. Nationally, juvenile justice systems have lower guard-to-inmate ratios, more rehabilitative programing, fewer inmates per facility, and oftentimes individual rooms. Adult criminal justice institutions are optimized for cost efficiency. As more juveniles who fall under the jurisdiction of the adult court are adjudicated in the juvenile court, there will likely be a minor increase in raw costs, though the per-juvenile cost trend will likely bend downward rapidly.

These upfront costs mask the long-term fallacy of prioritizing immediate, superficial saving over long-term benefits. One of the most effective methods for controlling criminal justice system costs is to ensure that offenders avoid recidivating, or re-offending, upon release. The immediate cost-savings enjoyed by processing a case through the adult court versus the juvenile court is quickly diminished if that individual is brought back before the court multiple times. Taken in tandem with the routinely lower recidivism rate exhibited by juvenile offenders handed in the juvenile justice system, it makes better long-term financial sense to adjudicate youthful offenders in the juvenile court. With dwindling juvenile probation caseloads, these low-risk youth will not likely strain existing capacity in many states.

In Texas alone, a recent cost-benefit analysis assessing potential fiscal impacts of this type of reform estimates that raising the age of the juvenile court jurisdiction will produce a net savings of $88.9 million per each cohort of 17 year-olds moved into the juvenile system.[v]

Mens Rea and the Overcriminalization of Youthful Indiscretions

Overcriminalization – the over-application or misuse of criminal law or processes to address non-criminal behavior – is a burgeoning problem in both state and federal criminal statutes. With a federal criminal code alone that boasts over 4,500 violations that may lead to criminal sanctions, in addition to hundreds of thousands of regulatory offenses, it is of no surprise that the accused often have little knowledge of the illegality of their behavior. Examples of nonsensical applications of criminal law abound; from the use of securities law to punish

environmental offenses[1] to the case of a famous racecar driver seeking life-saving refuge during a blizzard.[2]

Juvenile justice, too, has experienced a rampant uptick in the application of law and formalized proceedings to address behavior of dubious criminal blameworthiness. This is experienced two-fold by juveniles as they are subject not only to prevailing criminal law, but a body of status offenses – actions not criminal if committed by an adult like truancy, incorrigibility, or running way – as well.

In many of these cases, the fact pattern is missing one critical element: *mens rea*, the culpable mental state required to commit an offense under common law. Oftentimes juveniles are not fully advised if a specific activity is punishable given the vagueness of the rule.

A strong *mens rea* component included in the codification of each of the law or rule is necessary to ensure true violators are punished while others are not swept into the net of overcriminalization.

Too often state and federal courts are seen as a convenient venue in which to address what are fundamentally behavioral or social issues; actions which are not egregious violations of public order or sentiment. This misuse of the criminal justice system has real, measurable consequences.

The Role of the Federal Government in Juvenile Justice

Much like policies dealing with adult offenders, juvenile justice is primarily under the purview of state authority. This is reflected in the paucity of federal prisoners under the age of 18; 33 as of August 29th of this year.[vi] However, the federal government may incentivize certain state-level policies through grant programs and technical assistance.

The Juvenile Justice and Delinquency Prevention Act

Perhaps the most prominent example of federal juvenile justice policy, the Juvenile Justice and Delinquency Prevention Act (JJDPA) was first signed into law in 1974. Subsequently reauthorized, the JJDPA sets standards for state juvenile justice policy regarding sentencing and conditions of confinement.

While the JJDPA has managed to advance certain best practices in juvenile justice, it unfortunately allows for the jailing of status offenders under valid court order (VCO) exception.

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[1] In the case of *Yates v. United States* (574 U.S. ___), commercial fisherman John Yates was alleged to have possessed 72 red groupers thought to be undersized during an onboard inspection conducted by federal agents. Upon his return to shore, inspectors only uncovered 69 undersized red groupers, the implication being that he disposed of three en route. Mr. Yates was later charged with "destroy[ing]…or mak[ing] a false entry in any record, document, or tangible object," a provision in the federal code attributable to the Sarbanes-Oxley Act of 2002 (Pub.L. 107–204) and carrying a potential penalty of 20 years in prison.

[2] In the case of *Unser v. United States*, Bobby Unser and a friend were snowmobiling in the Rocky Mountains when they were caught in an unexpected blizzard. After becoming lost, the pair sought refuge in a barn. Unbeknownst to them, they had allegedly illegally snowmobiled through a national forest wilderness area.

Similar to a contempt of court ruling, juveniles who commit a non-jailable offense after having been admonished for the same activity are subject to incarceration.[vii] Subsequent reauthorizations should ensure the exception for VCO incarceration is removed.

Juvenile Justice in Texas[3]

While Texas has experienced success in terms of cost efficiency and public safety in the wake of the seminal 2007 reforms of its criminal justice system,[4] much of the juvenile justice system remain entrenched in inefficient and costly practices. That year, the revelation of several abuse scandals prompted the legislature to apply similarly reorganize the juvenile justice system.

The General Appropriations Act of 2009 provided additional funding to the juvenile probation system, allowing the Community Corrections Diversion Program to begin, which set a maximum target for incarcerated juveniles. Modeled after successful initiatives in other states, this program provided funding for counties that lowered the number of committed juveniles below that target by utilizing diversionary programs. Counties participating in the program were provided with additional funding to support diversionary options such as community-based residential placements or community supervision. Counties that went beyond the target, and incarcerated additional juveniles were required to return some of that funding.

The program cut the number of juveniles being sent to state-run facilities and allowed the Legislature to decrease funding for state facilities in 2009 by $100 million and more in the long-term.[viii] Today's Texas Juvenile Justice Department (TJJD) costs taxpayers less than the combined total of yesteryear's Texas Youth Commission (TYC) and Texas Juvenile Probation Commission (TJPC).

In mid-2010, the TYC advanced a strategic plan for 2011–15 to concentrate more on rehabilitation measures. In 2011, the Texas Legislature took these suggestions but went a step further by restructuring the entire system. Before 2011, juveniles in state custody were either under the TYC or the TJPC. SB 653 joined these two agencies as the TJJD in order to streamline communication between local systems and state-run facilities and thereby increase community involvement in corrections. The bill also required that the state use results-oriented performance metrics that focus on recidivism, educational and vocational progress, and victim restitution.[ix]

SB 1209 provided an option for counties to place juveniles in juvenile-detention centers while they awaited hearings.[x] This avoids the juveniles having to spend lengthy periods in adult lockups, as juveniles in adult facilities have been shown to have higher rates of assault, suicide, and recidivism after release.[xi]

Perhaps the most noteworthy juvenile justice reform of the past decade came during this past legislative session in the form of SB 1630.[xii] This bill stands to save the state tens of millions of dollars by lowering its reliance on state-run facilities and relocating lower-level

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[3] For more information on the timeline of Texas's juvenile justice reforms, please see *The Texas Model: Juvenile Justice* by Dianna Muldrow and Derek Cohen of the Texas Public Policy Foundation.

[4] For more information on Texas's reforms of 2007, please see *Texas Adult Corrections: A Model for the Rest of the Nation* by Greg Glod of the Texas Public Policy Foundation.

juvenile offenders to community-based programs.[xiii] It requires that judges evaluating non-determinate juvenile sentences assess whether the juvenile has a special need that cannot be met in the available community programs. If there is no such need, then the juvenile is to be placed in the community setting. This mandate was accompanied by a regionalization plan that further increases community involvement.

Trends in Crime, Costs, and Commitments

Since the passage of recent juvenile justice reforms, Texas has enjoyed a sustained drop in state-level commitments and general expenditures towards juvenile justice. In FY 2006, 2,738 juveniles were committed to secure facilities in Texas. By FY 2013, the number of commitments have plummeted to 818, a reduction of over 70 percent.[xiv] This drop has allowed the state to close or consolidate seven facilities.[xv] These reforms were attended by a commensurate drop in nominal spending. As illustrated in Figure 1, spending on juvenile justice is the lowest it has been since before FY 2001.

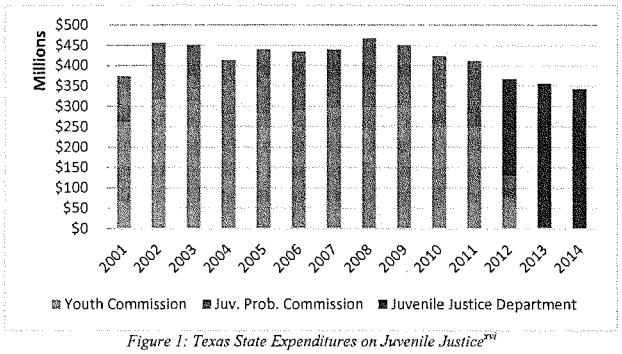

Figure 1: Texas State Expenditures on Juvenile Justice[xvi]

Community supervision caseloads have dwindled, as well. In FY 2010, an average of 30,549 youths were monitored daily.[xvii] In FY 2014, this number had dropped by nearly 25 percent to 23,064.[xviii] These reductions in secure and community placements came in tandem with increases in public safety, with formal juvenile referrals dropping from 89,893 in FY 2010 to 63,708 in FY 2014 – a reduction of nearly 30 percent.[xix]

Conclusion

To be clear, the task of administering the criminal justice system is solely the responsibility of the respective states. While criminal justice policy is fundamentally a state prerogative, with federal government can use future reauthorizations of the JJDPA to promote best practices and tie funding to performance metrics.

Juvenile justice reform is not "soft on crime." It is a matter of using the best possible tools for the job. Proper juvenile justice policy has the potential to intercede in a nascent

criminal career, preventing future victimization at the hands of offenders and drains on law enforcement and correctional resources. With great fiscal and human costs at stake, it is critical that states implement proven methods for dealing with delinquent behavior. Congress can aid in this endeavor by ensuring future legislation reflects an understanding of this.

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[i] Sickmund, Melissa, T.J. Sladky, W. Kang, and C. Puzzanchera, "Easy Access to the Census of Juveniles in Residential Placement" 2013.
[ii] *Ibid.*
[iii] Levin, Marc and D. Cohen, "Kids Doing Time for What's Not a Crime: The Over-Incarceration of Status Offenders." Texas Public Policy Foundation, 2014.
[iv] Steinberg, Laurence, "Cognitive and Affective Development in Adolescence." *Trends in Cognitive Science*, 9:2 2005.
[v] Deitch, Michele, R. Breeden, and R. Weingarten. "Seventeen, Going on Eighteen: An Operational and Fiscal Analysis of a Proposal to Raise the Age of Juvenile Jurisdiction in Texas." *Am. J. Crim.* L. 40, 2012.
[vi] Federal Bureau of Prisons. "Inmate Statistics: Inmate Age." Available at: https://www.bop.gov/about/statistics/statistics_inmate_age.jsp
[vii] Levin and Cohen, 2014.
[viii] Fabelo, Tony, N. Arrigona, M. Thompson, A. Clemens, and M. Marchbanks. "Closer to Home: An Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms." Council of State Governments, 2015.
[ix] SB 653. 82nd Texas Legislature. 2011.
[x] SB 1209. 82nd Texas Legislature. 2011.
[xi] Deitch, Michele, A. Galbraith, and J. Pollock. "Conditions for Certified Juveniles in Texas County Jails." Lyndon B. Johnson School of Public Affairs, 2012.
[xii] SB 1630. 84th Texas Legislature. 2015.
[xiii] Legislative Budget Board, "SB 1630 Fiscal Note." 84th Texas Legislature. 2015.
[xiv] Texas Juvenile Justice Department. "TJJD Commitment Profile." Available at: http://www.tjjd.texas.gov/research/profile.aspx
[xv] Pew Charitable Trusts. "Bending the Curve: Juvenile Corrections Reform in Texas." 2013. Available at: http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2013/psppbendingthecurvejuvenilecorrectionsreformintexaspdf.pdf
[xvi] Texas Comptroller of Public Accounts. "Texas Transparency." Available at: http://www.texastransparency.org/
[xvii] Legislative Budget Board. "Adult and Juvenile Correctional Populations: Monthly Report (Sep 2015)." Available at: http://www.lbb.state.tx.us/Documents/Publications/Info_Graphic/812_Monthly_Report_Sep_2015.pdf
[xviii] *Ibid.*
[xix] *Ibid.*

Chairman KLINE. Thank you very much.

Mr. Baxter, you are recognized for 5 minutes.

TESTIMONY OF MR. SLOANE BAXTER, YOUTH ADVOCATE, WASHINGTON, D.C.

Mr. BAXTER. Good morning, Chairman Kline and Ranking Member Scott and members of the committee. My name is Sloane Baxter, and I appreciate the opportunity to talk to you all today. I am 22 years old, and I'm here to share my personal experience with the juvenile justice system.

I was the at-risk youth we're talking about today. Like a lot of other young people, who find themselves involved with the juvenile justice system, my family and I had challenges. My parents did the best they could, but both my mom and dad had drinking problems when I was young. By the time I was 11 or 12, I had become used to taking care of myself and doing things without much supervision.

At school, things were up and down for me. I have ADHD. Teachers didn't always know the best way to help me. At home I started staying out late and hanging out with older guys. But by the time my parents realized the path I was on and tried to correct it, I didn't want to hear it.

I started getting in serious trouble at 14 years old. When my parents separated, I came back to visit my dad and we got into an argument on a late night. My dad was intoxicated and I had been drinking as well. After that argument, I left the house, and although I had never been in trouble with the law before, I decided to try to steal a car. I broke the car window, but didn't get any further than that. When I walked away from the car, I was quickly caught by police and arrested.

Breaking that window, trying to steal that car at 14 was really a cry out for help, an effort to control things that were out of my control. I know that now.

I was detained at a youth service center, which is YSC, and placed on probation that I didn't comply with. I continued to missed curfew, drink alcohol, and occasionally smoke marijuana. There was no positive intervention with me at this point. Probation monitored me, but didn't do anything to implement help or assistance in my circumstances.

I was ultimately committed to DYS, or Department of Youth Rehabilitation Services. Despite no new charges and a low risk level in the community, I spent most of the next year locked up at YSC, and then Oak Hill, which was a detention center for young youth.

Oak Hill was a terrible, terrible place for me. The kids would get in fights with each other, fight guards, and, you know, pretty much just run around as they felt need. I was 15 years old and depressed when staff from Boys Town came out to Oak Hill to interview me. I didn't know what to expect, but when I arrived, it was so different from the institutional, locked facilities where I had been. Boys Town was the first place that I had went where I felt that people actually cared about what they did and they actually cared about what I did.

It was a positive, nonhostile environment. The expectations to learn and succeed were clear. It was a family-oriented atmosphere,

and I lived with my Family Teachers, the trained married couple who implemented the Boys Town motto of care and support of staff. Payton and Yadelska Wynne became like a second set of parents to me.

At Boys Town I had individualized care while Boys Town helped me. And finally, me admitting that I had a problem and them giving me the help I needed, I ended up going to rehab. And then I went back to finish the program with the Wynnes. Through the good times and the bad times, Boys Town was persistently supporting me. I was actually able to help other guys in the house, and we were a positive influence on one another.

With all the skills I had learned at Boys Town, I became a peer mediator at school and I graduated successfully in 2012. Life still presents difficult circumstances, but now I have the skills to handle those situations as they come. I didn't learn anything positive locked up at YSC or Oak Hill, but at Boys Town I learned all kinds of skills that I still use today with my family and on my job.

I have been employed with the same major corporation as a coffee barista for 4 years at Union Station, and I run my own small home improvement business. I'm self-reliant, and I have a better relationship with my parents today. My dad and I had a lot of struggles, but now I can actually tell him I love him. I haven't been rearrested, and I won't be. I have different visions for my life and possibilities for myself.

Boys Town was a program that helped me and so many others just like me turn our lives around. But I'm not any different from any of those guys and themselves. The difference is that someone didn't just lock me up and give up on me. Instead, I got help and support in my community, and I was able to take charge for myself for the long term.

I easily could have been a statistic. Instead, I'm a taxpaying, contributing member of society. There is that possibility in every young person, as long as you, me, and all of the rest of us are willing not to give up on them before even really giving them a chance to start.

Thanks for inviting me to be here. Thank you.

[The testimony of Mr. Baxter follows:]

Written Testimony of
Sloane Baxter

In a hearing before

The United States House of Representatives
Committee on Education and the Workforce

entitled

"Reviewing the Juvenile Justice System and How It Serves At-Risk Youth"

October 8, 2015

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Saving Children, Healing Families®

Good morning, Chairman Kline, Ranking Member Scott, and members of the Committee. My name is Sloane Baxter, and I appreciate the opportunity to talk to you all today. I am 22 years old, and I'm here to share my personal experiences with the juvenile justice system and what did and did not work to help me cope with difficult circumstances, improve my social skills, and make better decisions for my life.

I was the at-risk youth we are here to talk about today. Like a lot of other young people who find themselves involved with the juvenile justice system, my family and I had challenges. Preparing for this hearing really made me think about how and when things went wrong for me. My parents did the best they could, and we have repaired our relationship now, but both my mom and my dad had drinking problems when I was young. I think I first realized things were off when I was around 8 years old, but by the time I was 11 or 12, I had become used to taking care of myself and doing what I wanted to do without much supervision.

At school things were up and down for me. I have ADHD and teachers didn't always know how best to help me. At home, I started staying out late and hanging out with older guys. By the time my parents realized the path I was on and tried to correct me, I didn't want to hear it. What bothered me was it felt like everyone expected *me* to change because I was the child. They would ask me, "Why is it so hard to come in when the street lights are on or just do the right thing?" But in my mind, I was thinking, "Why is it so hard for you to stop drinking or be there when I need you?"

I started getting in serious trouble at 14 years-old. My parents had separated, and I was living in North Carolina, but I came back to DC to visit my dad. We got into an argument late one night. My dad was intoxicated and I had been drinking as well. After that argument, I left the house and intended to go hang out with friends on the Southeast side. Since I lived on the Northeast side, I decided to get there by trying to steal a car – only I had no idea what I was doing. I had never done anything like that before. I grabbed a brick, threw it through a car window, tried unsuccessfully to start the car with a screwdriver, and when I walked away, I was quickly arrested by the police.

Breaking that window, trying to steal that car at 14, that was a cry for help and an effort to control things out of my control – I know that now. I was detained at the Youth Services Center (YSC). At court, I was placed on probation, and I didn't comply with the terms of my probation. Remember, I was used to doing what I wanted to do, and nothing else around me had changed. Even though I continued to miss curfew, continued to drink alcohol, and occasionally smoked marijuana, there was no positive intervention with me at that point. Probation *monitored* me, but didn't do anything to *help* me.

I was ultimately committed to the Department of Youth Rehabilitation Services (DYRS). I hadn't picked up any new charges, and I wasn't violent or even outwardly destructive, but my dad agreed with my probation officer that commitment was the only way to deal with me. Despite a low risk level to the community, I spent most of the next year locked up at YSC and then the Oak Hill Detention Center, which was youth prison. DC has a new juvenile facility now, but Oak Hill, where I was sent, was a horrible place. It was a compound with barbed wire. Kids would fight each other, fight guards, no one felt safe. The expectation was that youth would do whatever they wanted to do, and so that's what would happen. It was the last stop as a juvenile, before out-of-state residential programs or adult jail. I was fortunate to only spend about two months at Oak Hill before getting referred to Boys Town, a community-based, therapeutic residential program.

I was 15 years old when staff from Boys Town came out to Oak Hill to interview me. I was depressed, I didn't really want to talk to anyone, but I've been told that when the staff mentioned that there were little kids in the home where I would go, I lit up. It didn't sound like a typical group home.

I didn't know what to expect, but when I arrived it was so different from the institutional, locked facilities where I had been. It was the first place that I went where I felt like the people actually cared about what they did. It was a positive and not a hostile environment, staffed by a trained married couple and support staff, where the expectations to learn and succeed were clear. I lived with my Family Teachers, Payton

and Yadelska Wynne, who became like a second set of parents to me. When I arrived, they had their own small children, so I was immediately placed in a situation where I wanted to role model for someone else. It was a family-oriented atmosphere and there were plenty of people to help me, including assistant family teachers, kind of like aunts and uncles, along with my peers.

At Boys Town, I had individualized care. I was one of six guys in the house, but we each had our own goals and things to work on. I didn't know what my leadership potential was before I was exposed to different things at Boys Town, like "self-government" at family meetings and shoveling snow for elderly neighbors in the community, not because it was court ordered, but because it was the right thing to do. While at Boys Town, they recognized, and I finally admitted, that I was self-medicating and had a drug and alcohol problem. I went to rehab, and then went back to finish the program at Boys Town. Through the good times and the bad, Boys Town was there persistently supporting me and my family. Having people who believed in me unlocked a whole new way of life.

As I got better, I was actually able to help other guys in the house, and we were a positive influence on each other. Together, we had the opportunity to participate in a summer program called "The Beat Within," where we published a book of poetry called Concrete Dreams with the help of author Kwame Alexander. I was enrolled in the Chelsea School, and it was finally a school that worked for me. They partnered with Boys Town and my family, and could accommodate my IEP. With all the skills I learned at Boys Town, I became a peer mediator at school, and I graduated successfully in 2012.

Life still presents difficult circumstances, but now I have the skills to handle those situations as they come, and a big picture I keep in mind when making decisions. I made mistakes, but I learned from them. I didn't learn anything positive locked up at YSC or Oak Hill, but at Boys Town I learned all kinds of skills that I still use today with my family and on my job. I have been employed with the same major corporation as a coffee barista for 4 years, and I run my own home improvement small business. I'm

self-reliant. I have a better relationship with my parents. We still have our times now and then like any family, but the difference is now I know how to communicate. My dad and I have had a lot of struggles, but now I can actually tell him that I love him. I haven't been re-arrested, and I won't be. I have a different vision and possibility for my life than I did when I was younger.

Everything doesn't work for everybody, but all youth want to do something positive with their lives and are looking for consistency and structure – whether we can express it correctly or not. Boys Town was the program that helped me, and so many others just like me, turn our lives around; but I'm not any different from other kids who find themselves in trouble with the law. The difference is that someone didn't just lock me away and give up on me. Instead, I got help and support in my community, and I was able to make changes for the long-term.

I think Congress should reauthorize the Juvenile Justice and Delinquency Prevention Act and fully fund the community-based, life-changing programs the Act supports. With more options for early intervention and prevention, perhaps we can help the 14 year-old kids who are out there now, just like I was, avoid the system altogether. In my opinion, that should be the priority in addressing national criminal justice reform, because too often juvenile offenders become adult criminals. I know that this is Youth Justice Awareness Month, so I'm glad to be here today, able to share my story. If you want to know what works, talking and listening to individual young people is the first step.

I told my cousin what I was doing today, and he said just making an appearance and telling my story could make a difference. Even if you have heard stories like mine before, he said I should still tell you, because maybe it might impact you in a new way today.

I easily could have become a statistic, and instead I'm a tax paying, contributing member of society. There is that same possibility in every other young person, as long as you, me, all of us are willing to *not* give up on them before they even really get to start.

Thank you.

Boys Town was founded in 1917 in Nebraska by Father Edward Flanagan. He was a leader in the movement to reform how abandoned and wayward children were treated in America, advocating for homes and education instead of the orphanages and workhouses that were typical during that time. Although our name is "Boys Town," we provide help, healing, and hope to both boys and girls and their families. Over the last 98 years, we have grown to directly serve almost half a million children per year in over 10 states and the District of Columbia. Our Integrated Continuum of Care® provides a range of evidence-informed services from prevention and intervention through aftercare and family reunification. Between our Common Sense Parenting® classes, parenting and YourLifeYourVoice.org® websites, National Crisis Hotline, National Research Hospital, Well-Managed Classrooms and Schools training, and a variety of Youth and Family Care Services, ***Boys Town touches the lives of over 2 million Americans each year.***

Chairman KLINE. Thank you, sir.

Judge Teske, you're recognized for 5 minutes, sir.

TESTIMONY OF THE HONORABLE STEVEN TESKE, CHIEF JUDGE, CLAYTON COUNTY JUVENILE COURT, JONESBORO, GA

Judge TESKE. Good morning, Chairman Kline, Ranking Member Scott, and members of this committee.

In addition to the 16 years I've spent on the court, I've been involved in the juvenile justice system in many other capacities. You've mentioned one, Chairman Kline, and that is serving my Governor, Nathan Deal, on the Criminal Justice Reform Commission, but I state that specifically because we studied the juvenile justice system and it resulted in sweeping recommendations that were unanimously approved by our State legislature.

This morning I would like to focus on our current juvenile justice system and the need to reauthorize the JJDPA. We do not have a national centralized juvenile justice system. Consequently, laws, policies, and procedures can vary widely from State to State and among local jurisdictions. This creates a patchwork of juvenile justice systems that result in inconsistent outcomes for youth, families, and communities, including youth exposure to physical, mental, and emotional injury.

To address these inconsistencies and improve outcomes for youth and community safety, Congress passed the JJDPA in 1974. This act is designed to bring consistency in juvenile justice best practices among all the States by identifying four protections based in research that are core to delinquency prevention and rehabilitation. I'll name them quickly.

The deinstitutionalization of status offenders, DSO. Status offenses are not crimes if committed by an adult. They include skipping school, running away, unruly behavior, and possession or use of alcohol. Under the JJDPA, with rare exceptions, status offenders may not be held in secure detention because it introduces them to truly delinquent youth that becomes a training ground to delinquency.

Jail removal. Youth charged with a delinquent act may not be detained at adult jails, and for the same reason status offenders should not be locked up with delinquent youth. Children who are housed in adult jails are eight times more likely to commit suicide, two times more likely to be assaulted by staff, 50 percent more likely to be attacked with a weapon than children in juvenile facilities.

The third one, sight and sound. Same reason. In those rare exceptions when children are placed in adult jail, sight and sound contact with adults is prohibited.

And then lastly, disproportionate minority contact, DMC. Studies indicate that youth of color receive tougher sentences and are more likely to be incarcerated than white youth for the same offenses. States are required to assess and address the disproportionate contact of youth of color at all points in the justice system.

The JJDPA is intended to create a Federal-State partnership for the administration of juvenile justice and delinquency prevention by providing funding, planning, and technical support to address the core protections.

JJDPA has been a game changer in the juvenile justice field. For example, when I took the bench in 1999, my county was inundated with high commitment rates to State custody, overwhelming probation caseloads, of which most were kids of color, and nonviolent offenders and high reoffense rates. Using an approach mirrored in Ranking Member Scott's Youth PROMISE Act, I created a number of evidence-based programs and practices using Federal funding. These programs, seeded by Federal funds from JJDPA, have accomplished the following: Number one, an 83 percent decrease in our detention population; a 75 percent reduction in detention of minority youth; 77 percent fewer commitments to State custody; 70 percent fewer commitments of minority youth. And, despite all of that, our juvenile crime rate went down 62 percent.

In our efforts to reform juvenile justice statewide, which was led by our Governor, Nathan Deal, these Clayton County programs have become a model for reform. We have seen great success in Georgia, but we must be able to continue to capitalize on that momentum to ensure our children and communities are safe.

To that end, I recommend the following. Number one, enhanced judicial training to keep up with the specialized field of juvenile justice; reauthorize the JJDPA for the reasons I just mentioned and so that new research in evidence-based trauma and foreign practices can be implemented nationwide; strengthen the disproportionate minority contact core protection of JJDPA; and eliminate the use of detention of status offenders and promote less harmful and more effective alternatives to detention.

Given the momentum in the Senate with the recent passage of the reauthorization in the Judiciary Committee, I believe this committee must begin its work to reauthorize the outdated JJDPA. Chairman, your committee now has an opportunity to improve upon a historical and strategic act of Congress that has assisted States like mine to keep our communities safe and put youth on a better path.

I want to express my gratitude to you, Chairman Kline and this committee, for holding this hearing, and I look forward to working with you in any way I can.

[The testimony of Judge Teske follows:]

The Honorable Steven C. Teske

Chief Judge, Clayton County Juvenile Court, Georgia

Testimony before the House Committee on Education and the Workforce Hearing on "Reviewing the Juvenile Justice System and How It Serves At-Risk Youth"

October 8, 2015

Good Morning Chairman Kline, Ranking Member Scott, and members of the Education and the Workforce Committee. Thank you for inviting me to testify at today's hearing, "Reviewing the Juvenile Justice System and How It Serves At-Risk Youth."

My name is Steven Teske, and I currently serve as the Chief Judge at the Clayton County Juvenile Court in Georgia, a suburb of Atlanta. In addition to the sixteen years I have spent on the court, I have been involved in the juvenile justice system in many other capacities. At the Governor's request, I have represented the 13th Congressional District on the Board of the Georgia Children and Youth Coordinating Council (and served as the chair of the board), was appointed vice-chair of the Governor's Office for Children and Families, appointed to the Georgia Commission on Family Violence, and serve on the Judicial Advisory Council to the Board of the Department of Juvenile Justice. I have also served as a representative for Georgia on the Federal Advisory Committee on Juvenile Justice for the United States Department of Justice's Office of Juvenile Justice and Delinquency Prevention from 2007- 2011.

I am a member of the Georgia Council of Juvenile Court Judges and served as its president from 2008-2009. I am also a member of the Board of Directors of the National Council of Juvenile and Family Court Judges (NCJFCJ), and chair NCJFCJ's School Pathways to the Juvenile Justice System Committee, which provides oversight and implementation of the technical assistance made available to jurisdictions seeking to develop school-justice partnerships. The NCJFCJ, the oldest judicial membership organization in the nation, is devoted to ensuring justice and improving outcomes for families, children, and victims of domestic violence that touch the court system. NCJFCJ offers education, technical assistance, and research on juvenile and family law matters to professionals in the juvenile and family justice system.

In 2012, Governor Nathan Deal appointed me to serve on the Georgia Council for Criminal Justice Reform, which studied the juvenile justice system and resulted in sweeping recommendations to the Governor that were unanimously approved by our state legislature. The Governor appointed me in 2013 to the Commission on Criminal Justice Reform to continue the study of adult and juvenile justice reforms and to provide oversight around the implementation of the changes enacted. I am co-chair of the Oversight and Implementation Committee. Since 2010, I have been serving as a designated judge of the superior court hearing both adult civil and criminal matters.

I want to begin by thanking you, Chairman Kline and Ranking Member Scott, for holding this hearing and continuing the much needed discussion and debate on juvenile justice reform. As you know, in July the Senate Judiciary Committee passed the bi-partisan *Juvenile Justice and*

Delinquency Prevention Act Reauthorization of 2015. I and my fellow members of the NCJFCJ applaud the hard work and dedication of Chairman Grassley and Senator Whitehouse and all the distinguished Members who signed onto that legislation and have continued to advocate for it as it now awaits action by the full Senate.

The NCJFCJ maintains its position that the juvenile justice system must be appropriately resourced and must embrace practice informed by science. Without education and resources and a federal partner to assist juvenile justice professionals, challenges will not be overcome and we will fail to carry out the four core requirements of the JJDPA.

Judicial officers and advocates alike are eager for an update of this critical legislation, which does so much for young people and has not been reauthorized since 2002. Although the number of juvenile arrests accounts for a small portion of the nation's crime and has declined more than 45 percent since 2004[i], in 2012, police made 1.3 million arrests of persons under the age of 18;[ii] and juvenile courts handled more than one million cases in 2013.[iii] On any given night, nearly 55,000 juveniles were held in residential placement facilities, most for non-violent offenses and the vast majority are youth of color. [iv] An estimated 2,800 new court commitments to state adult prison systems in 2009 involved youth younger than age 18 at the time of admission.[v]

I would also like to thank Ranking Member Scott for his strong leadership and laser focus on the need for communities to implement more programming on the prevention side of the equation in order to decrease the number of young people I see in my court every day. Specifically, Representative Scott's Youth PROMISE Act, which he has been working on since 2009, aims to reduce violence in communities that have a high concentration of youth at risk of school disengagement, social disconnection and/or delinquent behavior. The NCJFCJ supports the Youth PROMISE Act and its focus on prevention and intervention in addressing issues related to juvenile delinquency. Through community partnerships in which the court plays a pivotal role, through additional resources provided, and through research and promulgation of evidence-based practices, the needs of children, youth, families and their communities will be better served in the future. There has been tremendous progress in research on young people impacted by the juvenile justice system over the last decade. I believe we must leverage implementation science to expand and improve the use of evidence-based practices, and strive to create trauma-responsive courts and educate stakeholders on the impact of human development.

I initiated reform in my county beginning in 2003 and the approach mirrored exactly the approach proposed in the Youth PROMISE Act. Using collaboration as the core strategy, I introduced the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative that requires the use of objective detention admissions instruments and safe alternatives to detention, risk and needs assessment tools for probationers to help us divert low risk youth from further court involvement using restorative justice programs and strategically target the high risk youth using evidence-based programs and practices. We created two multi-disciplinary teams that meet weekly to assess detained youth for safe alternatives and the other to assess at-risk youth for prevention. We were the first county in the country to develop the School-Justice Partnership Model to dismantle the school-to-prison pipeline and to date our school arrests have decreased 83%. In the *The Handbook for Evidence-Based Juvenile Justice Systems*[vi], this model was cited as "an ideal solution to excessive school suspensions and expulsions." Together, our multifaceted

reform efforts in Clayton County have resulted in significant and substantial outcomes that I address below.

For this morning's hearing, I would like to focus on our current juvenile justice system.

Background: JJDPA, OJJDP and the Four Core Protections

We do not have a national, centralized juvenile justice system. Instead, there are more than 56 different juvenile justice systems independently operated by the U.S. States, territories, the District of Columbia, and local governments. Consequently, laws, policies, and procedures can vary widely from state to state and among local jurisdictions. This creates a patchwork of juvenile justice systems that result in inconsistent outcomes for youth, families and communities, including youth exposure to physical, mental and emotional injury. To address these inconsistencies and improve outcomes for youth and community safety, Congress passed the *Juvenile Justice and Delinquency Prevention Act* (JJDPA) in 1974. It was last reauthorized in 2002.

The JJDPA is designed to bring consistency in juvenile justice best practices among all the States by identifying four protections based in research that are core to delinquency prevention and rehabilitation. States that comply with the core protections receive federal funding for programming that promote the core protections.

The four core protections include:

• Deinstitutionalization of Status Offenders (DSO): Status offenses are offenses that only apply to minors whose actions would not be considered offenses if they were adults. The most common are skipping school, running away, breaking curfew and possession or use of alcohol. Under the JJDPA, status offenders may not be held in secure detention or confinement. There are, however, several exceptions to this rule, including allowing some status offenders to be detained for up to 24 hours. The DSO provision seeks to ensure that status offenders who have not committed a criminal offense are not held in secure juvenile facilities for extended periods of time or in secure adult facilities for any length of time. These children, instead, should receive community-based services, such as day treatment or residential home treatment, counseling, mentoring, family support, and alternative education.

• Adult Jail and Lock-Up Removal (Jail Removal): Youth may not be detained in adult jails and lock-ups except for limited times before or after a court hearing (six hours), in rural areas (24 hours plus weekends and holidays) or in unsafe travel conditions. This provision does not apply to children who are tried or convicted in adult criminal court of a felony-level offense. This provision is designed to protect children from psychological abuse, physical assault and isolation. Children housed in adult jails and lock-ups have been found to be eight times more likely to commit suicide, two times more likely to be assaulted by staff, and 50 percent more likely to be attacked with a weapon than children in juvenile facilities, according to U.S. Department of Justice Studies.

• "Sight and Sound" Separation: When children are placed in an adult jail or lock-up, as in the scenarios listed above, "sight and sound" contact with adults is prohibited. This provision seeks to prevent children from psychological abuse and physical assault. Under "sight and sound," children cannot be housed next to adult cells, share dining halls, recreations areas or any other common spaces with adults, or be placed in any circumstances that could expose them to threats or abuse from adult offenders.

• Disproportionate Minority Contact (DMC): States are required to assess and address the disproportionate contact of youth of color at all points in the justice system - from arrest to detention to confinement. Studies indicate that youth of color receive tougher sentences and are more likely to be incarcerated than white youth for the same offenses. With youth of color making up one-third of the youth population, but two-thirds of youth in the juvenile justice system, this provision requires states to gather information and assess the reason for disproportionate minority contact.

The JJDPA is intended to create a federal-state partnership for the administration of juvenile justice and delinquency prevention by providing:

• Juvenile justice planning and advisory system, establishing State Advisory Groups (SAGs), spanning all states, territories and the District of Columbia;

• Federal funding for delinquency prevention and improvements in state and local juvenile justice programs; and

• Operation of a federal agency (Office of Juvenile Justice and Delinquency Prevention (OJJDP)) dedicated to training, technical assistance, model programs and research and evaluation, to support state and local efforts.

The JJDPA also established the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in order for the federal government to function as a responsive and responsible partner with all states under the JJDPA.

The Need for Re-Authorization of the JJDPA: A Georgia Example

JJDPA has been a game-changer in the juvenile justice field. I will share some examples of what JJDPA has done in Georgia by beginning in my own county of Clayton.

When I took the bench in 1999, my county was inundated with high commitment rates to state custody and overwhelming probation caseloads of which most were kids of color and non-violent offenders. In search of ways to improve our system, I found the Annie E. Casey Foundation Juvenile Detention Alternative Initiative (JDAI). The Casey model inspired me to create a number of programs using federal funding that have resulted in significant reductions in racial and ethnic disparities, detentions, commitments to state custody, and the removal of the valid court order exception. These programs seeded by federal funds provided by the JJDPA include the following:

• FAST Panel (Finding Alternatives for Safety and Treatment): a multidisciplinary panel of experts that meets before every detention hearing to assess each youth and family and make recommendations to the judge for alternatives to detention. This panel, called the FAST Panel has resulted in 85% of all youth released with a re-offense rate waiting to return to court of less than one percent (1%).

• Second Chance Program: A program for deep-end youth eligible for commitment to state eustody, but allowed to remain in the community with intensive supervision and treatment. Since 2010, forty-eight youth have graduated with a 6% re-offense rate compared to the 65% re-offense rate of the youth committed. This program has saved the State approximately 3.9 million dollars while increasing public safety and the well-being of these youth.

• System of Care: An independent backbone agency with a board of directors that braid public and private stakeholders and an executive director and staff that receive referrals from the school system of at-risk youth for assessment and treatment. This agency coordinates all child service agencies to deliver evidence based programs for the prevention of delinquency. The programs associated with this agency have reduced school arrests by 83%, status filings in the court by 86%, while improving school attendance, behavior, and test scores. Despite our county being the poorest in all of metro Atlanta, our graduation rates have been steadily increasing and posted the highest increase in graduation rates for the last academic year.

These programs, seeded by federal funds from JJDPA, have accomplished the following:

• 83% decrease in average daily detention population (ADP)

• 75% reduction in ADP of minority youth

• 47% reduction in average length of stay

• 77% fewer commitments to state custody

• 70% fewer commitments of minority youth, and a

• 62% reduction in juvenile arrests.

In our efforts to reform juvenile justice statewide, which was led by our Governor Nathan Deal, these Clayton County programs have become a model for reform. Our Governor created a criminal justice reform commission to study the juvenile justice system, which resulted in a 62% reduction in commitments to state custody using federal formula grant monies from the JJDPA. These funds were used to rehabilitate youth in the community along with their families using evidence based programs listed on the OJJDP website. Our reforms also included the removal of the valid court order exception for status offenders.

Juvenile court judges possess a unique role as we are situated at the crossroads of juvenile justice knowing that it requires multiple stakeholders to prevent and reduce delinquency. In order for us to improve our due process role on the bench and endeavor to fashion orders that exact justice by

improving the lives of our youth, we must work off the bench to manage the stakeholder traffic on these crossroads. Juvenile justice is a specialized field and it requires a specialized judge equipped with the skill set to implement these evidence based programs and practices and to develop the convening skill to manage the crossroads of juvenile justice.

Courts are central to the success of JJDPA programs, and much of the work outlined in the statute relies on court interventions. We have seen great success in Georgia in recent years, but we must be able to continue to capitalize on that momentum to ensure our children and communities are safe. To that end, I would like the make the following policy recommendations:

- Enhance judicial training: Judges are in a unique position to order services and tools to better serve system-involved youth. These federal requirements can greatly enhance opportunities and outcomes for system-involved youth, but only if the courts are trained to respond in the way that Congress intended.
- Reauthorize the Juvenile Justice Delinquency Prevention Act (JJDPA) so that new research in evidence-based and trauma-informed practices can be implemented nationwide and stakeholders can be educated on the impact of human development.
- Strengthen the disproportionate minority contact core protection of the JJDPA to expressly require efforts, initiatives and programs similar to Clayton County's model to reduce and eliminate racial and ethnic disparities in the referral of students to the juvenile court.
- Eliminate the use of detention for status offenders and promote less harmful and more effective alternatives to detention.

Given the momentum in the Senate, I believe the House Education and the Workforce Committee must begin its work to re-authorize the outdated JJDPA. There is a universally recognized need to further reduce delinquency and improve juvenile justice systems in this country, and federal leadership is necessary to advance the pace of change. Chairman, your Committee now has an opportunity to improve upon an historical and strategic Act of Congress that has assisted states like mine to keep our communities safe and put youth on a better path.

I want to express my gratitude to you and your Committee for holding this hearing, and I look forward to continuing to work with you in any way I can as this process progresses.

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[i] Federal Bureau of Investigation. (November 2014). *Crime in the United States 2013*. Washington, DC: U.S. Department of Justice. Online. Available: http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/table-32/table_32_ten_year_arrest_trends_totals_2013.xls

[ii] Office of Juvenile Justice and Delinquency Prevention (OJJDP). (Released on December 16, 2014). *Statistical Briefing Book*. Washington, DC: U.S. Department of Justice. Online. Available: http://www.ojjdp.gov/ojstatbb/crime/qa05101.asp?qaDate=2012.

[iii] OJJDP. (Released on April 27, 2015). *Statistical Briefing Book*. Washington, DC: U.S. Department of Justice. Online. Available: http://www.ojjdp.gov/ojstatbb/court/qa06201.asp?qaDate=2013.

[iv] OJJDP. (Released on April 27, 2015). *Statistical Briefing Book*. Washington, DC: U.S. Department of Justice. Online. Available: http://www.ojjdp.gov/ojstatbb/corrections/qa08201.asp?qaDate=2013, and http://www.ojjdp.gov/ojstatbb/corrections/qa08205.asp?qaDate=2013.

[v] OJJDP. (December 2014). *Juvenile Offenders and Victims: 2014 National Report*. Washington, DC: U.S. Department of Justice. Online. Available: http://www.ncjj.org/nr2014/index.html.

[vi] Howell, James C., Lipsey, Mark W. and Wilson, John J. (2014). *The Handbook for Evidence-Based Juvenile Justice Systems*. New York, Lexington Books, p. 135.

Chairman KLINE. Thank you, Judge.

Dr. Goldsmith, you're recognized.

TESTIMONY OF DR. TIM GOLDSMITH, CHIEF CLINICAL OFFICER, YOUTH VILLAGES, MEMPHIS, TN

Mr. GOLDSMITH. Thank you so much, Chairman Kline and Ranking Member Scott, for having us at this setting today.

I'd like to talk a bit today about what's it's like for a provider to work with these families. We serve youth and families and the community across the Nation. With recent events with some of our troubled young people, it's even more important that we take this focus now.

Members here have already mentioned some of the alternatives to juvenile justice and also some of the decrease. Let me tell you a bit about our work and our charge.

Youth Villages is a nonprofit organization serving more than 23,000 at-risk youth and their families in 12 States and the District of Columbia, and even in these States of some of the members here, and also in this judge's court. Our organization has received numerous accomplishments, but part of them are focused on the issues that were mentioned here already: Cost effectiveness and positive results and impacts. That has been our focus.

In my role as Youth Villages' chief clinical officer over the last 26 years, I've led the development and implementation of intervention aimed at improving the outcomes of at-risk youth. But I want to be clear, we did not start there. Initially, all that we were was a congregate care lockup facility. At that point in time, we had a good bit of outcome research that showed, surprisingly to us, that the more treatment that we provided in a group setting, the worse the kids did. Imagine our chagrin when we found out the longer they stayed, the worst they did.

At that point in time, we changed our intervention strategy and focused on intensive in-home services, particularly Intercept and multisystemic therapy, which addresses the needs of youth who have been involved in the juvenile justice system and in the foster care system.

Many of the youths, as Sloane mentioned here today, have challenges, but these trajectories can be changed. These young people come from chaotic, troubled, and it's already been mentioned here the trauma that these young people have is dire. The families are in dire circumstances. And more importantly, in many locations, many people believe that these youth are beyond repair. These youth have had trauma, they have real challenges in thinking skills, and now over the past 10 years we know even more about the impact of growing up in trauma and impact on adolescent brain development. We know more now.

So many of our programs now focus on changing these trajectories. It is intensive, it's family focused, it's cost effective, with a major focus on safety, a major focus on the impact on victims, and that most of these youth have been victims themselves.

A quick story about Ben, a young person that we worked with in our multisystemic therapy program. Forty criminal charges before we became involved with him. After that, he was placed in our multisystemic therapy program. He and his family were seen for 3

weeks and remarkably did well. And even when he got finished, went back to some of the people that he had stolen from and asked for an apology and apologized to them and offered to work for them for free.

So there is evidence and strong evidence that the interest in community-based services works. We can do more. Initially, when we started, initially with judges, like this one next to me, it was a tough sell, because they were concerned about community safety, and certainly that is true. But our results started speaking for themselves, and our programs were strengthening families and strengthening communities.

Seventy-five percent of youth, as has been mentioned here before, in youth facilities are confined for nonviolent offenses. The interesting part is that these children, these young people, they will come home, and they will be taxpayers, and they will vote. And so we need to do what needs to be done now to be able to make certain that happens.

And as has been noted, scientific evidence suggests that incarceration is not developmentally appropriate and that youth confinement may actually lead to a higher risk of reoffending later in life. Our experience has shown that these programs work as long as they are family focused, they allow us to address the root issues within families, and they allow us to focus on the concrete needs of all families. And it's also cost effective, on average $426 a day for youth in a residential setting compared to $100 a day for our programs.

I believe that our work demonstrates that alternatives to juvenile incarceration are not only necessary, but possible and cost effective, because these youth will be back in your community. Ultimately, this benefits everyone, because these stronger families mean stronger neighborhoods and stronger communities.

Thank you very much for your interest and allowing us to speak.

[The testimony of Mr. Goldsmith follows:]

Written Statement of

Tim Goldsmith, Ph.D.

On behalf of

Youth Villages

"Reviewing the Juvenile Justice System and How It Serves At-risk Youth"

Before the

U.S. House Education and the Workforce Committee

U.S. House of Representatives

Washington, DC

October 8, 2015

Good morning! My name is Dr. Tim Goldsmith, and I am Youth Villages' Chief Clinical Officer. I want to thank Chairman Kline and the other distinguished House Members of the Education and the Workforce Committee for inviting me to speak about Youth Villages' experiences serving youth in the juvenile justice system.

Youth Villages is a nonprofit organization serving more than 23,000 at-risk youth and their families each year in 12 states and the District of Columbia. Our organization has received numerous accolades for our effectiveness in improving outcomes for at-risk youth, including recognition from Harvard Business School, Casey Family Programs and the National Coalition for Juvenile Justice. In my role as Youth Villages' Chief Clinical Officer over the last 26 years, I have led the development and implementation of interventions aimed at improving the outcomes of at-risk youth. Two of those interventions are intensive in-home services, Intercept® and MST®, which address the needs of youth who have been involved in the juvenile justice system or foster care system and their families.

The youth we work with are extremely vulnerable. They have had chaotic and troubled home lives, experienced unimaginable traumatic events and hardships, and lived in impoverished communities. Some believe the youth we serve have an already determined trajectory and their early involvement with the law only means they are "beyond repair." However, our experience has shown us that many of these youths' trajectories can be positively changed with intensive, family-focused, cost-effective, in-home services that allow the youth to safely remain in their communities with their families.

To illustrate, let me share Ben's story with you. Ben was 14 years old when he had already amassed 40 criminal charges – mainly for breaking and entering -- stealing from homes and cars in a three-county area. From that history, where would you guess Ben's life would end up? He could have been sent to long-term detention, where he would meet and associate with other troubled teens and have little or no access to evidence-based help. Instead, he and his mom were referred to a Youth Villages Multisystemic Therapy program. Our MST specialist met with Ben and his family three times each week. We were on call 24/7 if they needed us. When Ben got caught smoking marijuana on school grounds a month into treatment, we didn't give up.

Instead, we helped his mom tighten up her supervision and continued therapeutic work with Ben. At one point in the court process, Ben faced his victims, including a farmer from the community. After the hearing was over, Ben went up to him and offered to work to repay him – even though he didn't have to. Ben went to work, and his victim became his mentor and one of his greatest advocates. Ben's life is now completely different. He has goals: he wants to be a farmer or lumberman. Ben's story is only one of many I could share with you, and we believe there could be many more of these success stories if we shift the way we think about how to effectively intervene with at-risk youth.

When we started providing these services, they were a tough sell. The vast majority of judges across the nation believed that punishment was the only way to address the youth's offenses and crimes. Others were skeptical about the community's safety. Slowly, but surely, our results started speaking for themselves. With their intensity and clinical-based models, our services were strengthening families and helping them properly supervise and care for their own children. This dramatically changed the outcomes for these youth – and it kept the community safe. Over these years, I have witnessed an increased interest in community-based and family-focused approaches. However, we are still not where we need to be. According to the Annie E. Casey Foundation, 75 percent of youth who are in juvenile facilities are confined for non-violent offenses[1], meaning that the vast majority of these youth could potentially be treated with community-based interventions that do not require confinement.

At Youth Villages, we strongly believe in the need for alternatives to youth incarceration. First, we do not believe that a punitive approach is developmentally appropriate. Scientific research has shown that the adolescent brain has difficulties processing the differences between right and wrong, controlling impulsivity and engaging in logical thinking[2]. This evidence has already influenced several U.S. Supreme Court rulings that limit the state's ability to impose life without parole sentences and that have abolished death sentences for juveniles. Furthermore, in

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[1] Annie E. Casey Foundation. (2013) *Youth Incarceration in the United States.* Retrieved from: http://www.aecf.org/m/resourcedoc/aecf-YouthIncarcerationInfographic-2013.pdf.

[2] See, e.g., Jay N. Giedd et al., "Brain Development During Childhood and Adolescence: A Longitudinal MRI Study," Nature Neuroscience 2, no. 10 (1999): 861; Jay N. Giedd, "Structural Magnetic Resonance Imaging of the Adolescent Brain," in Adolescent Brain Development: Vulnerabilities and Opportunities, ed. Ronald E. Dahl and Linda Patia Spear, Annals of the New York Academy of Sciences, Vol. 1021 (2004); Nitin Gogtay et al., "Dynamic Mapping of Human Cortical Development During Childhood Through Early Adulthood," Proceedings of the National Academy of Science 101 (2004): 8174; Arthur W. Toga, Paul M. Thompson, and Elizabeth R. Sowell, "Mapping Brain Maturation," Trends in Neurosciences 29, no. 3 (March 2006):148-59; online publication, Feb. 10, 2006.

the populations we serve, adolescent development is compounded with trauma, which has been linked to criminal offenses[3]. Second, research also suggests that confinement, as compared to community-based services, can lead to higher incarceration rates later in life[4] and higher likelihood of dropping out of high school[5].

This scientific evidence, combined with our experiences, informs our belief that a youth's trajectory can be changed with services that address trauma, promote self-regulation and guide the youth toward natural supports in the community. Our experience proves the feasibility of programming that is family focused, has positive outcomes for youth, and is cost effective.

Families as the solution: Both of our in-home programs offer intensive in-home services that provide therapy and supports for not just the youth, but his or her family as well. Our experience has shown us that seeing families as part of the solution benefits everyone. Therapeutic work with the family unit allows us to address many root issues that led to delinquency in the first place, while also strengthening the network and supports that will help the youth stay on a sustainable positive path.

Positive outcomes: Youth Villages is an outcome-driven organization. We work with states to collect and measure outcomes of youth after they complete our programs, and what we have found is extremely positive. Twelve months after discharge from our in-home programs, 75 percent of youth with prior legal involvement have not had any further involvement with the law, meaning that our programs' re-offending rates are approximately 25 percent. Compare this to a state like Virginia, where twelve months after discharge from a correctional center, 46.3 percent of juveniles had been re-arrested[6].

Cost effective: Our programs have not only been effective, but they have resulted in cost savings. While a residential placement can cost the state an average of $426 a day per youth[7], our

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[3] Widom, C.S. and Maxfield, M.G. (2001). *An update on the "Cycle of Violence." National Institute of Justice: Research in Brief.* Washington, D.C.: U.S. Department of Justice, Office of Justice Programs.

[4] Fabelo, Tony, Nancy Arrigona and Michael Thompson. (2015) *Closer to Home: An Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms.* Retrieved from: http://csgjusticecenter.org/wp-content/uploads/2015/01/texas-JJ-reform-closer-to-home.pdf.

[5] Aizer, Anna and Joseph J. Doyle. *Juvenile Incarceration, Human Capital and Future Crime: Evidence From Randomly-Assigned Judges.* National Bureau of Economic Research (June 2013). Retrieved from: http://www.mit.edu/~jjdoyle/aizer_doyle_judges_06242013.pdf.

[6] Retrieved from: http://vaperforms.virginia.gov/indicators/publicsafety/recidivism.php

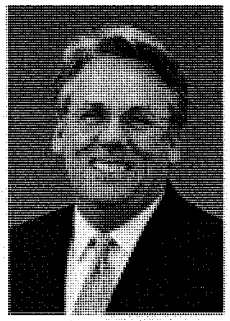
[7] The Pew Charitable Funds. (2015) *Re-examining Juvenile Incarceration.* Retrieved from: http://www.pewtrusts.org/~/media/assets/2015/04/reexamining_juvenile_incarceration.pdf

in-home services typically cost $100 a day and have a shorter duration. According to an analysis conducted by *Fight Crime, Invest in Kids*, MST can save a state up to $16,000 per child.

I believe that our work demonstrates that alternatives to juvenile incarceration are not only necessary, but possible and cost effective. We have shown that with intensive and therapeutic approaches that target both youth and strengthen their families, we can address the root of the negative behaviors and help young people get on a law-abiding path to safe, good citizenship. Furthermore, this can be done for around a fourth of the cost of a detention facility.

Ultimately, this benefits everyone because stronger families mean stronger neighborhoods. Stronger neighborhoods mean stronger communities. And stronger communities mean a stronger America.

Dr. Tim Goldsmith
Chief Clinical Officer, Youth Villages



Dr. Tim Goldsmith has been a member of the Youth Villages executive staff since 1989. As the chief clinical officer, he provides leadership and supervision in the development and implementation of all clinical programs and interventions. Dr. Goldsmith has direct responsibility for the clinical, research, placement services and performance improvement departments.

He has been intimately involved in the development and implementation of evidence-based programs at Youth Villages, including Trauma Focused Cognitive Behavior Therapy, Multisystemic Therapy and other outcome-based strategies. Dr. Goldsmith holds a B.S. degree in sociology from Lambuth College. He received his MA and Ph.D. in Marriage and Family Therapy from the University of Southern California.

Dr. Goldsmith received a gubernatorial appointment to the Tennessee Commission on Children and Youth. He is a member of the national advisory council of the Children in Managed Care Initiative of the Center for Healthcare Strategies (funded by the Annie E. Casey Foundation.)

His professional publications include: "Not All Managed Care Health Care Plans are Created Equal: Differences in Mental Health Service Provision, Program Participation and Outcomes among Medicaid Program Participants," with S. Hurley and G. Lord in "The 16th Annual Research Conference Proceedings: A System of Care for Children's Mental Health: Expanding the Research Base" (pp. 485-490).

Chairman KLINE. Thank you, sir.

Thanks to all the witnesses. You stayed within the time limits remarkably well.

I'll remind my colleagues that we're going to be limited to 4 minutes, because we have the hard stop at 11:45, just over an hour. So I'll recognize myself for 4 minutes.

I'm just going to keep going with you, Dr. Goldsmith. You were on a good roll there. We hear a lot, I hear a lot, about how one-size-fits-all approach is not very effective, that you need multiple approaches. Could you just take a couple of minutes and elaborate on why multiple approaches are needed and why they work?

Mr. GOLDSMITH. Certainly. It's interesting when you note that a good number of youth, when they go through the juvenile justice system, typically for the first time, they are typically referred for two things, individual therapy and parenting classes. And I know the judge knows this.

Some of the judges also know that the number one least effective intervention for youth like this is individual therapy. The dilemma is, in many courts across the Nation, is that they have no other options. They provide what they can unless the judges have worked with their States and with their Federal legislatures to provide services.

So most of these youth who come in we work with in multiple systems. We work with the family, we work with the youth individually, we work with school systems, we work within the community, and most importantly for these young people, we work with their peer groups.

So the one size, really, you are exactly right, does not fit all. You have to work across multiple systems to provide impacts. When you think of a parent who had a negative experience in school, and perhaps were a dropout themselves, and then you ask them to go and advocate for their youth in that school system where perhaps that same principal was the person who kicked the parent out.

So it takes a tremendous amount of work across multiple areas that focuses on a large number of different strategies and a large number of different interventions for parents. I have yet to meet a parent that did not want to be a good parent. Lots of times they just don't know how.

Chairman KLINE. Thank you very much.

I yield back and now recognize Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

Let me just follow up with Dr. Goldsmith. How does the bill, the Juvenile Justice Delinquency Prevention Act, fund the programs that you're recommending?

Mr. GOLDSMITH. I'm not fully familiar with all of the different components of how the bill funds these. I know that it has a focus on delivering alternatives to juvenile justice services, and it was the initial start of that. Some of the components that the judge mentioned in terms of confinement are also a component of some of the programs that we serve, particularly in reference to disproportionate minority confinement. But I'm not familiar with all of the components of that.

Mr. SCOTT. Thank you.

Judge Teske, I noticed that nobody suggested that we try more juveniles as adults. Could you tell me what you can do for a juvenile in juvenile court to reduce recidivism that criminal court judges can't do?

Judge TESKE. Yes, sir. You know, first, in distinguishing the role of a juvenile court judge from an adult judge really comes down to, you know, the juvenile and the adolescent brain of the juvenile. I mean, you know, their frontal lobe isn't developed until age 25, and that's the part that holds—supposed to be holding the hands to the rest of our limbic system. So, you know, and they are hormonally charged up. So we have to be more patient with them. We have to give them time. They are under neurological construction. I mean, they are neurologically wired to do stupid things. Okay?

I'm not saying they're stupid, because they have a great capacity to do wonderful things, but we can destroy that capacity if we use a hammer, okay, to beat them up. And so we need to slow down. We need to take the system, slow it down.

And to follow up, you know, on Dr. Goldsmith, keep in mind there are eight criminogenic factors, there are eight causes of delinquent behavior. And that's why, you know, the one-size-fits-all can't work, because kids may have different reasons for why they're committing delinquent acts. Family function, their peers, substance abuse, cognition, okay?

And so what we are able to do is that we can fashion things, okay, a treatment plan. You know, in the adult world, there are no treatment plans. It's either this, 1 to 5 years, mandatory minimums, 20 years. I mean, who's talking about fixing them? Put on probation, have conditions of probation, now go and sin no more. We don't do that in the juvenile justice system, or we shouldn't do that in the juvenile justice system. We need to slow down, fashion treatment plans. It's not about punishment, it's about helping fix these kids and their families.

Mr. SCOTT. Thank you.

Mr. Cohen, you mentioned Right on Crime is focused on reducing crime and saving money in the process. Can you give a few examples of programs that reduce crime and save money that you have been involved in?

Mr. COHEN. Certainly. Just confining it to the State of Texas alone, you know, over the last two legislative sessions, two things we've engaged on are issues of ticketing, you know, how do children come about getting these minor, these Class C misdemeanors. In 2013, Senate bills 393 and 1114 functionally removed the ability for ticketing on Class C misdemeanors from school. Now, those misdemeanors in school, you know, basically turned into an adult criminal record very, very quickly. We had the same issue going on up until this last session with truancy.

We had similar success in the State of West Virginia. West Virginia had just passed their Senate bill 393, which had addressed many of the confinement on status offense issues, including truancy.

Mr. SCOTT. Mr. Cohen, my time is about to expire.

Chairman KLINE. Yes, sir.

Mr. SCOTT. If you could provide those to us in writing, as many of those programs you can, so we can review them, I'd appreciate it.

Mr. COHEN. Be happy to sir.

[The information follows:]

Dear Chairman Kline and membership:

Please find below responses to the outstanding questions posed by Ranking Member Scott and Representative Grothman. If I can provide any further information, please feel welcome to inquire at any time.

Thank you again for your service and for evaluating this critical issue.

Regards,

Derek M. Cohen
Deputy Director, Center for Effective Justice
Texas Public Policy Foundation

Successful Juvenile Justice Reforms[1]

Texas has seen a metamorphosis in juvenile justice in the last decade. Numerous reforms and changing policies have left the state with juvenile crime rates down by one-third, steeply decreased incarceration and arrest rates, and savings in the hundreds of millions. Texas is not alone in these changes either. Programs in other states have seen successful results, which will be summarized below.

Texas: New policies implemented in the 2007 and the years following have cut incarceration significantly. Legislation in 2007 ended the incarceration of juveniles for misdemeanor offenses. This habit meant that a great deal of taxpayer money was being inefficiently used to completely separate an individual from society, who could not only be safely supervised in the community, but research had shown would be less likely to recidivate under community supervision than incarceration.

Additionally, Texas had a serious review of their school discipline policies. It is often through these mechanisms that juveniles are exposed to the criminal justice system for the first time. The state realized that the practice of 'ticketing' misbehaving juveniles for minor misbehaviors in class was resulting in serious consequences for them down the line. The removal of the ticketing process has played a significant part in decreasing the number of juveniles introduced to the justice system, but it was not alone. Criminal truancy, a status offense, was another school related discipline mechanism that had strong repercussions on the juveniles it was

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[1] For further summary information, please see the following sources:
http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/04/reexamining-juvenile-incarceration
https://csgjusticecenter.org/wp-content/uploads/2015/01/texas-JJ-reform-closer-to-home.pdf
http://www.aecf.org/m/resourcedoc/aecf-MissouriModelFullreport-2010.pdf

intending to help. In the most recent session, Texas has changed truancy, which is no longer a criminal offense. This is estimated to save taxpayers hundreds of thousands of dollars.

Other states were simultaneously making changes as well. Ohio's RECLAIM program is one of many that demonstrates that placing most juveniles in remote incarcerated places is not protective of public safety, or efficient with taxpayer dollars. Texas has also adopted a model that keep most juveniles regionalized, in the last legislative session. These reforms are estimated to save millions of dollars, and have been proven to lower recidivism rates for many juvenile offenders.

Missouri has also implemented less traditional methods with juveniles in recent years to great success. The Missouri Model has put the emphasis on a therapeutic approach instead of a solely punitive approach. The state has managed to cut its juvenile incarceration population significantly, as well as lower recidivism rates, and decrease the money required for the system.

Trends and Family Backgrounds of Juvenile Offenders[2]

- According to a 2010 survey, over two-thirds of incarcerated juveniles were experiencing difficulties with high aggression, depression, and anxiety.
- 27 percent of juveniles in incarceration are experiencing severe mental health conditions, which is much higher than the rates among non-incarcerated youth.
- While difficult to find accurate numbers, as most youth will underreport, 30 percent of youth admitted that they had experienced sexual or physical abuse in their childhood.
- 74 percent of youth in the juvenile justice system had been exposed to and tried alcohol, 84 percent had been exposed to and tried marijuana, and 68 percent reported serious complications due to abuse of these items (further illegal action, blackouts).
- A majority of youth in custody – 61 percent – had been expelled or suspended in the year before their incarceration, and a quarter stated that they had been held back a year in school.
- Children that grew up in families where there was maltreatment – physical abuse or neglect – are more likely to be arrested before the age of 25.
- Children in families that have experienced divorce are also more likely to be involved in the criminal justice system. It is difficult to find actual causation here, as these circumstances co-occur with other negative, crime-inducing aspects of the situation.

[2] For further summary information, please see the following sources:
https://www.ncjrs.gov/pdffiles1/ojjdp/193409.pdf
https://www.ncjrs.gov/pdffiles1/ojjdp/227728.pdf
http://www.nccp.org/publications/pub_1038.html#21

Mr. SCOTT. Thank you.

Chairman KLINE. Dr. Foxx, you're recognized for 4 minutes.

Ms. FOXX. Thank you, Mr. Chairman.

I want to thank our panel today. The information you've provided has been very enlightening. I did have an opportunity many years ago to work with a facility that worked with children who'd been sexually and physically abused. And their focus after many years became family centered. And I learned a great deal at that time about the efficacy of family-centered therapies and family-centered treatments. So I'm really pleased to hear the comments that you all have been making about the programs that you're highlighting here.

Dr. Goldsmith, I'll try to follow the example of my chairman and ask you a question. You and other witnesses have testified to the importance of using evidence-based interventions, and my colleagues will tell you, I'm a big fan of that. In your experience, how do you most accurately measure interventions for their effectiveness?

Mr. GOLDSMITH. It's a great question, because lots of times people have interventions with no evidence, and there are those out there.

What we do in our programs, all of the evidence-based strategies that we use, the best ones have what we call fidelity measures. And so it's like having a plan and you want to be certain that you follow the plan. And so we have measures that we use in ours that allow us to track the integrity in how closely the intervention strategy follows the way that the model was developed.

That's most important, because lots of times people go to training, they get some training, and then they leave, and then they go out and attempt to implement the intervention. And if there's no ongoing strategy to know are you doing this the way it was designed, then it doesn't happen.

The second thing that we do at our organization that we measure the impacts of our programs 6, 12, and 24 months post-discharge, because we were looking for long-term, lasting change. And what we want to be able to do is to show a funder, a representative, a parent, if you put your child and you and your family participate in this program, we can tell you what the results are based on what your presenting issues are at 6, 12, and 24 months post-discharge across the five main areas that impact juveniles, which would be school, association with law enforcement, mental health needs, and return back to a long-term care setting.

Those are the types of things that we measure, because that's what people are interested in. Basically, if you finish the program, are you in school and are you a functioning member of society like all adolescents should be? So that's how we go about doing this, fidelity measures and the outcome measures.

Ms. FOXX. Thank you, Mr. Chairman. I yield back.

Chairman KLINE. The gentlelady yields back.

Mr. Pocan, you're recognized.

Mr. POCAN. Sure. Thank you, Mr. Chairman, and thank you for having this hearing. I know our Ranking Member Scott has made a long career of trying to have juvenile justice reform, and having this in this committee is really appreciated. So thank you.

Mr. Cohen, I am one of the more progressive Members of this body, and I'm big fan on Right on Crime. I spent about 20 minutes last year on the phone with Grover Norquist and talking to him specifically about this. And I know Ranking Member Scott asked you to share with us in writing some of the other reforms. My question is, how many States are you currently doing this in with Right on Crime is active? Do you know that?

Mr. COHEN. Yes. If we're including adult interventions as well, we are active in about 39 States.

Mr. POCAN. Thirty-nine States. That's fantastic, because this is an issue where, you know, again, we've been tough on crime and tough on crime, but I think we're finally getting smart on crime, and we're working together.

And this is, I think, a great collaboration.

On some of the programs that you're doing that you're aware of, what can we do at the Federal level to help incentivize some of these reforms?

Mr. COHEN. Well, to be honest with you, sir, I think the important thing is to point out the successes that these reforms have had in the States. These are reforms that have not only saved money in the short term, they have also saved exponentially more in the long run when we back out the cost of repeat offending, back out the marginal cost of the justice system. These are all areas of savings that we have for getting the policy right.

You know, in Texas, I mentioned in my oral testimony, we consolidated much of our juvenile system, prioritized the regionalization, kept juveniles and treatment closer to home so that they still can be integrated into their community, still can be integrated into their school system. By that, we have spent 16 percent less, and this is in nominal dollars over the course of a decade. You know, with inflation that's almost 20 percent less. So these are the types of selling points that should be made to the States.

Now, the States themselves, the police power, which includes the juvenile justice system, ultimately belongs to the States. The States should recognize it is in their best interest that this what they can expect with these programs.

Mr. POCAN. Sure. I appreciate that. Thank you.

Let me ask you another question, it's a little bit of a curve ball, I guess. But, unfortunately, some people, the political season, still try to take advantage of this, and we watched this in Nebraska in a congressional district where they ran very much a Willie Horton type ad based on the reforms that you're all advocating for and doing them in States like Texas.

Is there anything that we can do around that? Because I think there's such a great left-right alliance on this. This shouldn't be a partisan issue at all to try to move forward. How can we try to stop that kind of behavior to try to really move these issues forward?

Mr. COHEN. Well, I think the proof of concept to that particular question is simply in the statistics. You know, we've made these, some minor reforms in some cases, aggressive reforms in others in the State of Texas, and we have the lowest crime rate that we've had since 1968.

The reforms advocated by Right on Crime is not tantamount to soft on crime. You know, we still punish. However, we just make

sure that when we do we just don't take the—you know, to borrow from the doctor and the judge—we don't take a one-size-fits all approach. You know, if we have a low-level offender that could be better treated in the community and at no cost to public safety, let's do that. That is going to cost us 10 times less than it is to actually reserve bed space for that issue. And that person is going to still pay taxes, that person is going to still maintain contact with their family, they are still going to work their job. These are all benefits that you don't have if you just incarcerate as a knee-jerk reaction.

Mr. POCAN. Thank you.

And, Mr. Chairman, just in closing, in Wisconsin, I was in the legislature. Scott Walker, as a State legislator, Gwen Moore, as a State legislator, and I had helped placed a ban on placing juveniles at the supermax prison. We used to have 16- and 17-year-old kids there. So it can really work. And I just want to, again, applaud Right on Crime and what they're doing.

Thank you. I yield back.

Chairman KLINE. The gentleman yields back.

Mr. Rokita, you're recognized.

Mr. ROKITA. Thank you, Chairman.

And good morning, everyone. I appreciate everyone's testimony.

Back when I used to practice law, I did a bit of juvenile law. And Judge, I will tell you, it really didn't matter, frankly, what my clients did, my goal was to try to keep them out of the system, because if they succumbed to the system we were going to lose them forever, most likely.

And your professional testimony, each one of you, reaffirms that today, that I thought I was doing the right thing back then. That doesn't mean we let them go. We really presented the court with a lot of strong options and consequences and tried to take care of the problem ourselves.

And that was 20 years ago, and it seems like the practice, the industry, even if you want to call it that, has gotten a lot better, and your testimonies are proof of that.

I really only have two questions. The first one would be to Mr. Cohen. I want you to reemphasize what it takes, from an options perspective, to not let these persons become repeat offenders.

Mr. COHEN. Certainly. And that's, you know, I would actually throw back also to the testimonies from Dr. Goldsmith and Judge Teske, as well, is that the—

Mr. ROKITA. Please. I'll let them comment too.

Mr. COHEN. The one-size-fits-all approach, it never works. And that's also why Right on Crime specifically advocates for keeping most of the juvenile justice interventions at least primarily a State-level initiative, because the offenders in Texas aren't going to look like the offenders in Alaska and California, Vermont, et cetera.

So having multiple options because of the varying criminogenic risk factors, having multiple options because of the various factors that cause the intersection with the criminal justice system are all issues that need to be addressed, and those are best sussed out at the local level, the people who have the most hands-on data for what their specific needs for the juvenile system is going to look like.

So what we did in Texas, or one of the general models that we use in Texas is that we have a commitment-based refunding model. In other words, once we set a baseline of how many people are referred to the State, anything above that baseline they have to pay for, anything below that baseline they get a bit of a refund for. This is a kind of a micro version of the incentive-based funding models that you see a lot of the providers use in other States.

Mr. ROKITA. Judge, same question, anything to add there?

Judge TESKE. I agree with Mr. Cohen. In Georgia, we've done the same thing. We have a juvenile justice reinvestment program.

The problem has been in the past, going back 20 years ago, is what I call the default problem, where judges are looking at a kid, and they don't want the kid to go to jail, to be committed to the State, but they say: "But I don't have anything in the community for this kid." So by default, they do that. So we had to get money to the local level just like Texas, and that's how we did it.

But specific to your question is this: We need to follow what we now know, after 40 years of research, which has made juvenile justice truly a specialized field, okay, and distinguishes us from the adult court judges is very simple. There is what's called the risk principle, the needs principle, the responsivity principle, and the treatment principle. I don't have time, of course, to go into it. But as I once told Congressman Scott about 2010, Google it. Just go to "what works in community corrections juvenile justice" and you can get it, and that's how we're supposed to do it.

Mr. ROKITA. And, Doctor, let me have you yield. I want to get to Mr. Baxter, if you don't mind, in 15 seconds.

Mr. Baxter, what advice do you have for kids coming up and following in your footsteps, so to speak, so that they don't get trapped in the system?

Mr. BAXTER. I would have to say, the biggest thing for me was my peers and seeing how they were affected differently because they couldn't express themselves differently. So their perspective was very statistical.

I would probably say—

Mr. ROKITA. How do they avoid your missteps?

Chairman KLINE. The gentleman's time has, unfortunately, expired.

Mr. ROKITA. Thank you very much.

Chairman KLINE. Ms. Fudge, you're recognized.

Ms. FUDGE. Thank you very much, Mr. Chairman.

Thank you, Ranking Member Scott.

I thank you all for being here today.

Judge Teske, in your experience, what effect does poverty have on the youth you see in your courtroom, part one? And are there any programs that you are aware of that deal both with rehabilitation of the young person, but also pathways out of poverty for their families?

Judge TESKE. Excellent question. Poverty, as we know from the research, can drive crime. And it's about time that we start taking a look at poverty as a driver of crime and developing programs around that.

Let me just put this in a nutshell, okay? We need to study juvenile crime like we study diseases, all right? You identify at-risk

populations, identify the causation, and then develop a treatment plan.

Diseases don't occur by chance. Diseases are not randomly distributed. Disruptive behaviors don't occur by chance. They are not randomly distributed. They can easily be studied and they can be fixed. But when we study them, we find what the drivers are. I've already mentioned that there are eight of them, but we're finding out there's one, I think eventually there will be one called trauma added to it.

But even deeper than that, the reason there's a lot of trauma is because we get it from our poor kids who are coming to the court. Eighty percent, we do trauma assessment in our court, as much as 80 percent of the kids who come in our court have been traumatized. Traumatized people traumatize people, okay?

Now, what are the programs to do that? There's a number of them, have been mentioned here: Functional family therapy, multisystemic therapy, cognitive restructuring. The seven challenges in terms of drug treatment. But it must go much deeper than that. We must build relationships in our community among both the private and the public sector, the businesses as well as the public.

What we've done in Clayton County is we developed an independent backbone agency with a board of directors. The school system, which houses kids every day, Monday through Friday, they send the chronically disruptive kids to this independently backbone agency to do what? To assess, develop a treatment plan, monitor, get programs in the home, and most of them are poor families.

Ms. FUDGE. Thank you very much.

And I want to go back to Mr. Sloane. First, I'm sure that you hear from people all the time, Mr. Baxter, how proud we are of you. And I am proud of you today. And I thank you so much for being here. And I thank you for providing your deeply personal account of how you ended up here today.

So my question for you is, what do you think that we can do, what kinds of positive interventions or interactions that we can have with young people before they get to Oak Hill?

Mr. BAXTER. One of the things that worked for me best was I always had someone talking to me who knew a little bit more about things than I did. So regardless of where I was, there was always someone who would notice me, because I would observe things where I was at. I didn't really get into the physical aspect of being in these facilities and things like that. I was more of a—I had to stimulate my mind almost to keep sane.

So with that being said, the biggest thing was people believing in me, because with someone believing in you, they have to give you responsibility, and with responsibility becomes failure. Failure makes you learn on your own. So I would say them giving me the firsthand opportunity to fail or succeed on my own.

Ms. FUDGE. Well, thank you. I think you're a great success. Thank you for being here.

Mr. Chairman, I yield back.

Chairman KLINE. The gentlelady yields back.

Mr. Walberg, you're recognized.

Mr. WALBERG. Thank you, Mr. Chairman, and thank you for the hearing today. It brings me back to a number of years ago when

I was in the State legislature, and while my wife and I were away, our oldest son was assaulted on a bicycle trail, the bicycle destroyed. And, fortunately, he didn't lose his eye. Two thugs, juvenile delinquents, as they were called, beat him.

And what was frustrating was when we offered an opportunity to the courts for alternatives to incarceration in a juvenile home, and that alternative was for them to spend the month of August with our family, my son, who they had beat, and myself, scraping our barn and painting our barn together, and suffering the wonderful opportunity to eat my wife's home food cooking, but more than anything, we thought it would give an opportunity for an alternative for them to see victims as human beings, and for our family to work in turn with them attempting to right a wrong.

And that wasn't allowed by the courts. And I know one of those went on—both went to juvie home and one went on to prison subsequent to that. So the hearing today, this discussion is important.

Dr. Goldsmith, how does work fit in when we discuss the Juvenile Justice and Delinquency Prevention Act?

Mr. GOLDSMITH. I'm sorry, I don't fully understand.

Mr. WALBERG. How does work fit in? I guess I'm talking about the dignity of work. We often today don't talk about work being dignified. Any work, any good work, is dignified, no matter how much remuneration you make. How does that fit into the Delinquency Prevention Act?

Mr. GOLDSMITH. Right. Right. As been mentioned here, it was a critical component. You heard Mr. Baxter talk about his work experience now. And it's all part of the community systems that we try to embed youth in when you work in in-home, family-focused community systems. Part of that system is the community, and you try to find those support systems within that community. Work is an essential component of where that can occur.

Another one of our programs works with youth who are exiting the juvenile justice system. And we just finished a randomized clinical trial of that program with good success. A big component of that is the educational and vocational aspects of youth becoming involved in their community and involved as a taxpaying, working citizen.

So over and over and over again our impact show the greater exposure they have to law-abiding, working adults, the better their experience later.

Mr. WALBERG. And meaningful work opportunities?

Mr. GOLDSMITH. Yes, sir. I mean, I would imagine if you showed up in Judge Teske's court with the exact same case, he would probably go with you, would be my suspicion.

Mr. WALBERG. I would hope. I would hope so.

Mr. GOLDSMITH. But those sorts of opportunities are rare, quite honestly, because, as Mr. Baxter has mentioned, lots of times when you get into systems, they see these kids as beyond repair, and they just need a consequence. And if you really stop and read files about what do these kids actually experience, it is horrendous.

Mr. WALBERG. Let me just jump over to Mr. Baxter and ask, what challenges did you face in trying to find meaningful work?

Mr. BAXTER. I do home improvement on the side now, but I was doing it with my dad for a while, and it wasn't something I would

see myself doing for a longevity of time because of how strenuous it is. Outside of that, because he was my dad, he, of course, gave me a job, but I started wanting more independence for myself to say I did it for myself.

Mr. WALBERG. Okay.

Mr. BAXTER. Kind of with, like, negative and positive reinforcement.

Mr. WALBERG. Some of those that you see in the juvie system right now, what challenges did you see for them in getting that? You went on and did your own.

I see my time has expired. Thank you, Mr. Chairman.

Chairman KLINE. I'm going to rescue you, Mr. Baxter. The gentleman's time has expired.

Mr. DeSaulnier, you're recognized.

Mr. DESAULNIER. Thank you, Mr. Chairman. I want to thank you and the ranking member for this hearing and the panelists.

I'm going to date myself. I worked for a juvenile court in the '70s, in the great Commonwealth of Massachusetts, and I've always had interest in this because of that through local government in California and State government.

But what I want to ask you about, particularly Mr. Cohen and the judge, is sustainable funding. So in California, one of the things we struggle with is when the economy is doing well we put money into intervention and prevention, particularly for young people. We now know what the best investments are, but bringing that to scale and maintaining it has been a struggle. Might be somewhat unique to California because we depend too much on capital gain tax, so when we're doing well, we do this. But because juvenile probation doesn't have a big political constituency, it's always a struggle.

So at one point when I was in local government the Foundation Consortium in California, Irvine and Packard, came to us at the State level and the local level and said: We're not funding any more programs unless you do a reinvestment strategy. And over generations we know you can save money if you do intervention, prevention.

So can you talk a little bit about sustainable funding, knowing we know what is going to be the best even though it takes, as you say, not one-size-fits-all. Judge, could you talk about it a little bit? Maybe Mr. Cohen.

Judge TESKE. Yes, sir. Let me use first RECLAIM Ohio, because they were the first in the country to do reinvestment and redirect, established in 1995, yet it survived, okay, the economic turndown. And so I'd like to use that as a model picture for, you know, sustainability in terms of funding in the most difficult times.

And what it's really about—and it's going to depend on each State, whether it's a home rule State or whatever, in terms of how it governs. But in Georgia, you know, what Governor Deal has done is say: Okay, we are going to create a special line item, okay, we're going to put it in the Department of Juvenile Justice budget. We are going to have staff around that, manage that. You know, the devil's in the details.

What's happened because of these reforms, bed space has gone down. So, for example, those counties, which are many, that have received the reinvestment money—we call them incentive grants—

the commitment rate is down 62 percent. Okay? So imagine how that resonates in terms of funding. Already, in the short time, we have already saved the State $85 million. Okay?

Now, not all $85 million needs to go back into juvenile justice, right? Okay? So everyone is winning on this, including the infrastructure of the State, whether it be transportation or whatever, but we are dedicating those moneys, okay, on this formula basis, to go—now, the reason we got the money much sooner is because Governor Deal smartly said—asked the legislature for $5 million, okay, to hurry up and field this and get it started quick so the reinvestment money can be realized sooner.

Mr. DESAULNIER. Thank you.

Mr. Cohen, I don't want to exceed the chair's admonition about my 4 minutes, so if you could just briefly.

Mr. COHEN. Certainly. And Judge Teske did very well to point towards Ohio's RECLAIM program insofar as how a juvenile justice reinvestment strategy could work.

The only thing I would add to that conversation is, I am not aware of a particular model of jump-starting a reinvestment that doesn't require at least a small modicum of upfront costs. Now, you can expect to recoup that cost in a very short time horizon on many of these programs, but to think that it's nothing but just a downhill cost slope is a bit premature.

Mr. DESAULNIER. Thank you, Mr. Cohen.

I yield the balance of my time, Mr. Chairman.

Chairman KLINE. I thank the gentleman.

Mr. Carter, you're recognized.

Mr. CARTER. Thank you, Mr. Chairman.

And, gentlemen, thank you all for being here.

Let me start off by saying for the past 10 years I have had the honor of serving in the Georgia State Legislature. And during the legislative session of 2013, I was actually cosponsor of the juvenile justice reform that you speak of, Judge Teske, and we passed that during that session. It was signed into law in May of 2013 by Governor Deal.

As you just stated, it went into effect in October of 2014, and in a 9-month period we've seen a 62 percent decrease in cost. And that program has really turned out to be a great program. We're very proud of it there.

What I want to ask you very quickly is that, you know, phase one, which included new intake procedures, education, and family support, we saw the felony commitments go down, as I mentioned. Do you believe that works, the family support and the education part of it?

Judge TESKE. Yes, sir, it does. And by the way, let me say thank you for your yea vote, okay.

Mr. CARTER. Sure.

Judge TESKE. Yes. So we use, to give you an example, most of the counties now, if not pretty much—maybe all of them, but by far most of them use functional family therapy and multisystemic therapy, because the number one cause of delinquency by way of research is family function. Okay? So if you have family dysfunction, that becomes the greatest cost.

So you want to create the best protective buffer, and that's to build up the family, which means you have to get into the home to do it. You have to stop just treating the child. You have to look at the family, which tends to be many of the origin of the attitudes and other behaviors of the child leading to delinquency.

Yes, we have found it to be true. My probation officers are tickled pink that they have FFT. They are seeing a difference in the parents.

Mr. CARTER. Well, let me mention also that while I was in the Georgia State Senate, I also served as chairman of State Institutions and Properties, which included being on the Appropriations Committee, and being over appropriating for corrections. And we were faced with cuts that we were forced to make as a result of the decrease in revenue in our State.

And part of those cuts that we made were to move some of these low, like truancy and curfew violations that we had in the most secure juvenile beds, we moved them down to the less secure and to the family and at-home probation.

And Mr. Baxter, what I want to ask you is this. Now, please understand where I'm coming from. I ask you this because I suspect that you know people who have been through both the most secure facilities and the less secure facilities. Can you tell a difference in those people?

Mr. BAXTER. Yes, I can. I'd say the ones that had the higher security are 9 times out of 10 they are more likely to come out worse than they were when they first went in. When they come back, they are more aggressive. When they come back, they are out of tune with society, things, update in technology and everything is always up, up, up, up, up. They come home, nothing's the same.

So now you've taken somebody and you've erased everything they know, put them somewhere, taught them something, that it's either prey or predator almost when you're there. So when you come back out, they have that same mentality because nothing is there to prevent that from happening.

So it's a recycled mentality. So they do come out worse when it's a higher level of security as opposed to a program that implements skills to go back into society.

Mr. CARTER. Great. Thank you, Mr. Baxter, for being here.

Thank all of you for being here.

Mr. Chairman, I yield back.

Chairman KLINE. I thank the gentleman.

Ms. Wilson, you're recognized.

Ms. WILSON OF FLORIDA. Thank you.

Chairman Kline, I was excited to hear that you were calling a hearing on the subject of prevention and reduction of juvenile delinquency. As you know, I have dedicated my life to saving young men of color from the juvenile and criminal justice system. So I'm delighted for this committee to take up this issue, and I welcome the panelists here today.

I also applaud Ranking Member Scott for his tireless leadership and unwavering dedication to this issue. I know we share the strong commitment to preventing poor outcomes for at-risk youth, especially young men of color.

From my personal experience as a school principal, I know how important it is to reach children and give them the support, encouragement, and resources they need to make good choices for themselves and their futures. I also think there should be greater emphasis on school-based intervention and prevention programs.

Almost a quarter of a century ago, I founded the 5000 Role Models of Excellence Program, a program that has provided a model for dropout prevention initiatives across the Nation. Since its inception, 5000 Role Models has awarded more than $10 million in scholarship to minority boys and helped thousands of young men turn their lives around.

There are 98 chapters in the Miami-Dade County Public Schools, the fourth-largest school district in the Nation. Both Representative Curbelo and I represent them. There are 70 chapters in Pinellas County Public Schools, which is St. Petersburg, Florida. And there are 40 chapters in Duval County Public Schools, which is Jacksonville, Florida.

They take field trips to prisons, jails, and courtrooms so they can see firsthand how their actions can impact their lifelong goals. They have choices, extremely important choices. So they are exposed to the right choices and the wrong choices.

They tour colleges, universities, and technical institutions. The 5000 Role Models founded its own fire college to train emergency medical technicians and future firefighters for the entire State of Florida. We partner with Cadillac dealerships, the firefighters union, the pipefitters union, and the Port of Miami to train its future workforce.

These young men are also taught to respect the law, respect women, respect teachers, and others who are in charge. They learn to respect their elders, their parents, respect their peers, and respect themselves. They learn all this from people who love them and take time to listen to them.

This is a school-based program that encourages these boys of color to remain engaged in school. Studies show that when children are more behaviorally and emotionally engaged in school, they are less likely to be delinquent. As we move forward, I urge my colleagues to focus on this connection and how reauthorization of JJDPA can reflect this reality.

Mr. Baxter, I want to commend you for your work and turning your life around. Can you tell me, do you think you would have benefited from an in-school-based program to give you the encouragement, support, and one-on-one mentoring you needed at the time when you said you were in trouble and probation did not help you?

Mr. BAXTER. I did a few school things. One, I can't remember the name of the program, but it was basically a metropolitan police program where they have certain officers inside schools and they pick, like, one or two students out of the school to go to this program. I can't remember the name of it, but that was one.

But Boys Town also helped me out a lot because any facility that I was at, I was at a different school now. Chelsea School is basically a private school for kids with LD. So the times that I got sent out of State, my counselor would hop on the horn and bring me my

work so I could stay caught up on IEP and my curriculum. So, yes, school does help a whole lot, yes.

Ms. WILSON OF FLORIDA. I yield back.

Chairman KLINE. I thank the gentlelady.

Mr. Bishop, you're recognized.

Mr. BISHOP. Thank you, Mr. Chair.

And thank you to all of you that have come to testify today on such an important subject. I want to thank the chair for taking this subject up and giving us some time for us to discuss.

I've got kind of a unique perspective. I was a former prosecutor, but also a former defense attorney, so I've seen both sides of this. And I have also kind of witnessed firsthand the mentality in the judicial system with regard to crime and that in many cases the solution is always throwing the book at whomever that person is in front of the court that day, as if that would solve all problems.

We know firsthand that, in fact, that's not the case, and especially this is true with the Nation's youth. There are opportunities to intervene. There are opportunities to provide alternative sentencing in ways to address issues that aren't necessarily just punitive in nature.

That's why I'm really grateful that, Mr. Baxter, you're here today to really share. I think it's very brave of you to be here, for you to share your personal experience, to use that negative in your life as a positive, to help influence others in the future. And the fact that you are here today discussing public policy and ways that you can take your experience and expand it across the board for everybody to benefit from, I'm proud of you, and I just want you to know that. I'm very proud of you for being here today. And I'll give you a chance to speak.

I wanted to ask you, you were talking about when you were 14 years old and you broke that window that day, did you have any experience beforehand? Tell me about your family experience. I know you said there was alcohol involved at the time. Did you have an intact family unit? Tell me about what was in your mind that day that caused you to go down that path.

Mr. BAXTER. On that day I just wanted to get away. I wanted to get away from everything. A car means you're mobile. So I could go anywhere I wanted to at the time. But of course, I was unsuccessful at that.

The biggest thing was I was trying to control something that I had no control over. My parents tried to control me, and they didn't have control over me either. So it's basically that challenge, when things—the perspective I had then was moreso like if one thing doesn't go your way and you start out as an A, it is harder to maintain an A than it is to start from an F and make it all the way back up.

So that was kind of me wanting things to be right, wanting people to notice, getting the attention to make that difference, but I just expressed it in the wrong way, which eventually cost me more in the end.

Mr. BISHOP. So, obviously, you weren't thinking of the consequences down the line. You were expressing yourself at the time. But you indicated that you have had experience in both the heavy, traditional form of incarceration and also with Boys Town. What

lessons did you learn at Boys Town that got you where you are today? I'm impressed by the fact that you have just absolutely turned your life around and now are using your lesson as a tool for good.

Mr. BAXTER. They definitely give you social skills. So far as time management, which I still work on that one, there's some other ones, being self-reliant, and everyday things, disagreeing appropriately, which was a really big one. And that's a really big one for youth all around the board as well. That's something that we don't know how to do. There's debate and there's argument. You know, there's no disagree appropriately, that's unheard of.

They also have a point card system, which basically keeps track of your positive and your negative behaviors for the day, which reinforces if you'll have your privileges at the end of the week or you don't. If you don't, you have to work on skills every day until you make those privileges back.

So it's something that you end up internalizing after a while because it's actually what you want. They give you more responsibility. The more you learn, the more responsibility you get.

Mr. BISHOP. Thank you, sir.

I yield back.

Chairman KLINE. I thank the gentleman.

Ms. Clark you're recognized.

Ms. CLARK. Thank you, Mr. Chairman and Ranking Member Scott.

And to Mr. Baxter, I just want to say first, we all struggle with time management, as the chairman can tell you.

Chairman KLINE. Some more than others.

Ms. CLARK. But mainly, I want to thank you for giving voice to millions of young people with your testimony today and just tell you how much I admire your courage and your eloquence and the way you're building your life.

And we have seen great successes, and I'm grateful to the panel not only for being here today, for your work over the past few decades, and really the decrease that we've seen in juveniles who are in the criminal justice system overall. We have come very far from when I was a prosecutor in the early '90s and we had the mythology that was so corrosive to our public policies of the superpredator juvenile that was, you know, coming to our families and to our homes. And I'm very grateful that we have come so far.

But there is one trend that we're seeing that is alarming to me, that arrests among girls have grown by 45 percent and detention has grown 40 percent while we're seeing an overall decrease. And for girls of color, this is even more startling, 3 times as likely to be referred to a court and 20 percent more likely to be detained. A recent report just came out that said girls are over four times more likely than boys to have been sexually abused before their juvenile justice involvement.

So my question to you, and we touched, Chief Judge Teske, on this in your testimony and in response to some questions before, is trauma-informed practices are critical to how we do this. Can you explain a little bit, in a practical manner, what that means in the courtroom?

Judge TESKE. Yes. First of all, in a practical way, it means, first of all, very basic, is making sure that doors don't slam and make noises. It means stop shackling kids in the courtroom that don't need to be shackled.

Ms. CLARK. Do you see higher rates of shackling for girls?

Judge TESKE. Well, there are still plenty of jurisdictions that do indiscriminate shackling. They shackle everyone who comes into the courtroom, regardless of the nature of the crime they are charged with, which is counterintuitive to the presumption of innocence.

But other things, you know, we need to be more practical. I can help explain the increase. We changed the laws around domestic violence. So now the States have, you know, when the police arrive, whoever the predominant aggressor is, identify that person and remove them.

Well, because girls, with their unique needs and the trauma that many of them suffer, their behavior becomes their language. His behavior became his language. And so they pick up a knife. But that's just what they're doing, they're trying to speak. They do it through their behavior. They get arrested. That's when you start seeing the increases.

If we can start looking at exceptions and mitigating factors for girls in these circumstances, we're going to do better off.

Ms. CLARK. Thank you. And can you tell me, implementing these trauma-informed practices, have you seen a difference in recidivism? Do you have those stories to tell?

Judge TESKE. Yes, I do, and I can send those to you. I will be glad to do that, because I know we're getting ready to run out of time. But, yeah, I'll be glad to it.

[The information follows:]

GENDER INJUSTICE

System-Level Juvenile Justice Reforms for Girls

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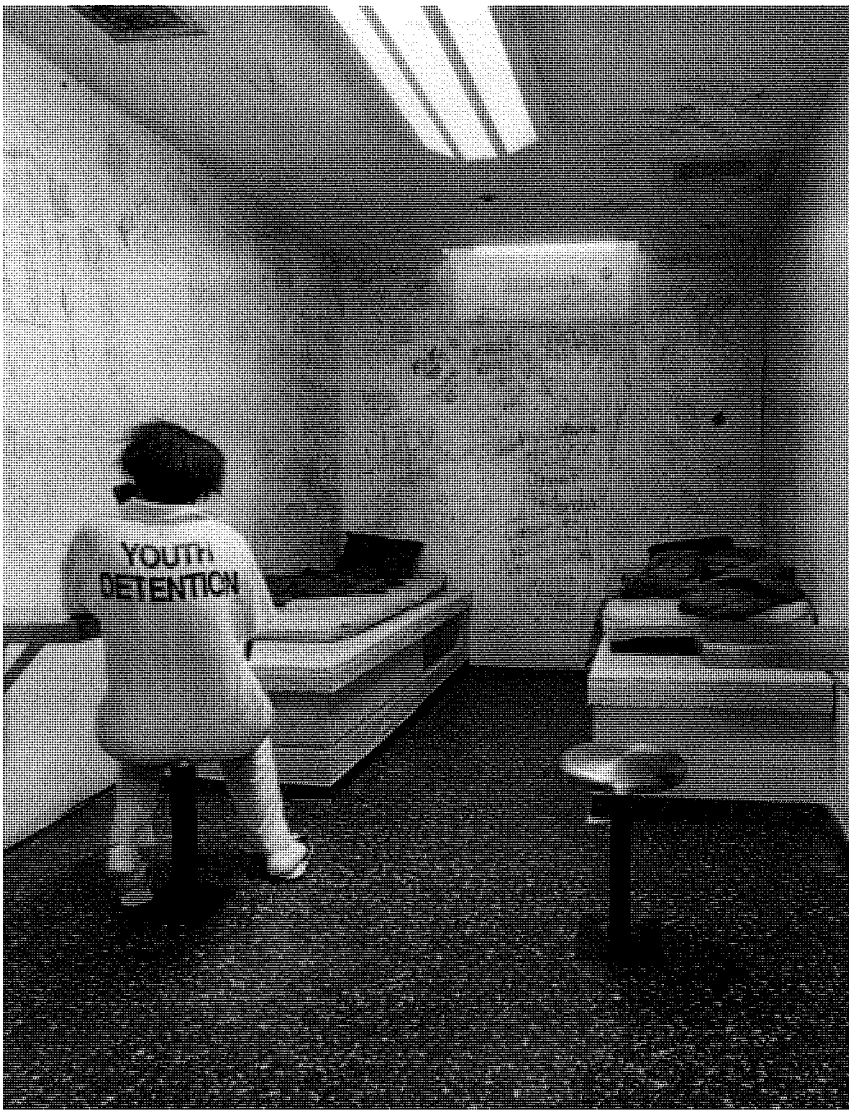

YOUTH
DETENTION

I. Introduction

Despite decades of attention, the proportion of girls in the juvenile justice system has increased and their challenges have remained remarkably consistent, resulting in deeply rooted systemic gender injustice. The literature is clear that girls in the justice system have experienced abuse, violence, adversity, and deprivation across many of the domains of their lives—family, peers, intimate partners, and community. There is also increasing understanding of the sorts of programs helpful to these girls. What is missing is a focus on how systems—and particularly juvenile justice systems—can be redesigned to protect public safety and support the healing* and healthy development of girls and young women.†

Juvenile justice systems reform is occurring across the country as a result of a growing understanding of developmental and neurological differences between youth and adults, the high cost of incarceration, and the consistent failure of a punitive juvenile justice model. However, even as systems are initiating reforms and changing their approach, they are routinely failing to modify those reforms for girls or even to collect data on how girls, specifically, are affected by the problems they are seeking to remedy. As a result, the particular impact on girls of failures in the juvenile justice system is not understood and few juvenile reforms are tailored to girls' needs and pathways into the system—meaning girls and young women are unlikely to fully benefit from system reforms.

Many of the problems discussed in this report are not unique to girls—and many of the suggested paths forward can benefit both boys and girls. However, because girls are frequently left out of reform discussions, an intentional focus on girls is needed to ensure that they fully benefit from system reforms. Indeed, in writing this report we were struck by the number of promising national and large-scale juvenile justice reform efforts that have not fully considered the role of gender in the problems they address or in the solutions they propose. If this intentional gender focus does not coexist with current large-scale system reforms, an important opportunity for gender justice and equity and developmental system reforms will be missed.

To facilitate developmental juvenile justice system reform for girls, this report will:

1. Map girls' current paths into and through the juvenile justice system;
2. Describe the social contexts driving girls' behavior and involvement in the juvenile justice system; and
3. Detail recommendations for an alternative, developmental approach to redesign juvenile justice systems to address harmful social contexts and girls' resulting behaviors, rather than penalize and punish girls for challenges beyond their control.

The recommendations included in this report are consistent with decades of research on adolescent development, as well as newer data on the development of girls in particular. With continued research on girls and an intentional focus on their needs, system stakeholders and policymakers can capitalize on current reforms that are already underway and ensure girls are not simply wedged into solutions meant for boys.

* We recognize that the term "healing" can be a sensitive term for some victims. Our intent in using the word is to encourage systems to intentionally address the physical, psychological, and emotional trauma girls experience due to victimization, and to provide these girls with the tools and resources they need in order to thrive.

† Throughout the report we use "girls" as shorthand for "girls and young women." As the report details, many of the issues and solutions apply to girls and young women up to age 26.

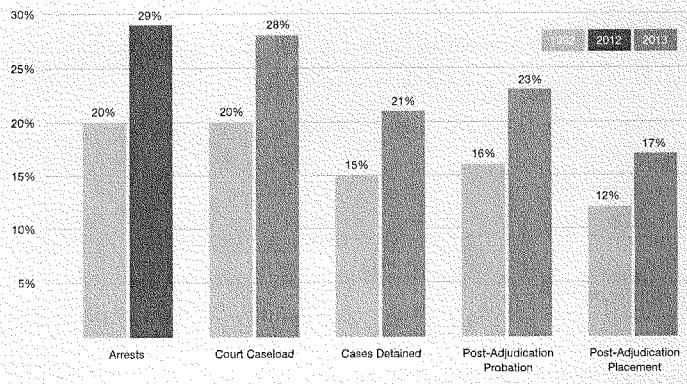
II. A Quick Look at History: Why Systems Over-Intervene and Often Fail to Help Girls

The juvenile justice system is animated by two competing goals that are in tension in the cases of girls—social welfare and social control—and that tension in part explains why systems struggle to respond to and meet girls' needs. The early history of juvenile justice tells the story of a social welfare approach used to reform the morality of "wayward" immigrant girls and shape them into wives and mothers living lives acceptable to mainstream and non-immigrant society.[1] This protective and paternalistic social welfare mission is even reflected in early status offense laws that applied to girls longer than to boys (some courts had jurisdiction over girls until they were 18, but only until age 16 for boys).[2]

Today, many judges would describe the practice of detaining girls who run away, or violate curfew or rules of probation in much the same way—as an effort to protect the girl. "What am I supposed to do, when she's out there and could be hurt?" is a common refrain. These girls very often have histories of trauma, conflict, and deprivation and need social supports, but many of the traditional tools of juvenile justice systems are ill suited to support healthy environments for girls and provide for their social welfare. They are blunt instruments—formal petitions, court proceedings, detention, and findings of rules violations—rather than individualized approaches, consistent with developmental research and tailored to each girl's social environment, risk level, and needs. As a result, even the most well-intentioned juvenile justice systems tend to push girls further into the system, with arrest leading to petitioning, leading to detention, leading to incarceration, etc.—all the while underutilizing opportunities to reduce system involvement.

The goal of helping girls causes courts and systems to over-intervene, often to girls' detriment. Girls' share of the juvenile justice system is growing, yet evidence shows that greater restriction is rarely the answer and cannot address the violence and deprivation underlying so many girl offenses. Taking a developmental approach in line with the recommendations in this report will help systems focus on the social contexts driving girls' behavior and create effective solutions, without being overly paternalistic or controlling.

Girls' Increasing Share of the Juvenile Justice System, 1992 to 2012/2013*



Source: Adapted from Charles Puzzanchera, "Juvenile Arrests 2012" (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2014): 3, http://www.ojjdp.gov/pubs/248513.pdf; Melissa Sickmund, Anthony Sladky, and Wei Kang, "Easy Access to Juvenile Court Statistics: 1985-2013," http://www.ojjdp.gov/ojstatbb/ezajcs/.

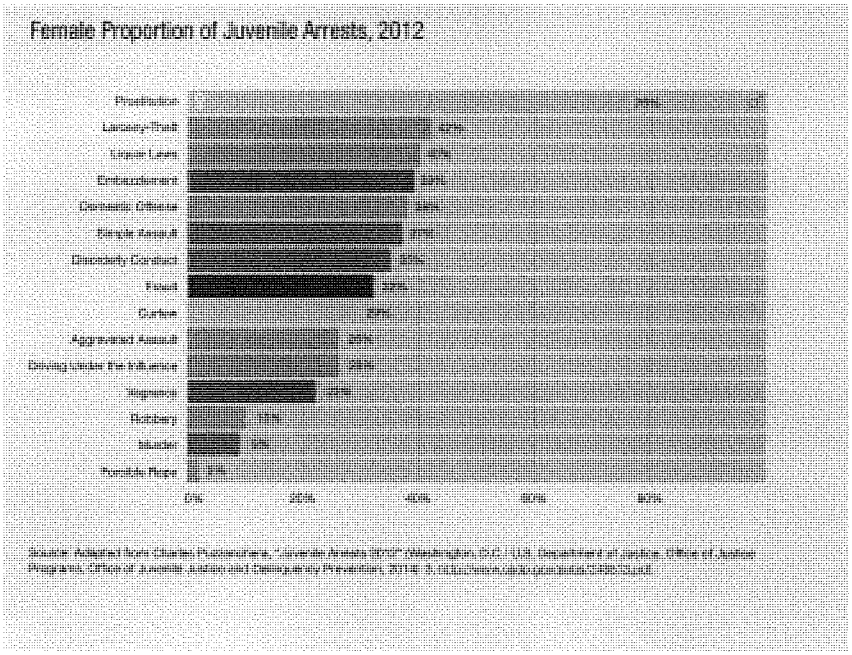
* At the time of this writing, 2012 is the most current available juvenile arrest data and 2013 is the most current juvenile case processing data.

III. Mapping Girls' Justice System Paths: How Abused and Traumatized Girls Enter and Are Pushed through the Justice System

There are a number of ways in which girls who pose no threat to public safety and whose behavior is directly related to experiences of abuse, violence, and deprivation enter and are pushed through the juvenile justice system. Each system decision point (e.g., arrest, petition, detention, and disposition) presents an opportunity for girls to either be diverted to the services they need or get pulled into the system more deeply. Currently, the system is structured to pull girls in, rather than to use available "off-ramps" to divert them to more appropriate interventions. Certain subgroups of girls fare especially poorly: although far more research is needed, intersectional analysis of girls by race and ethnicity shows significant disparities disadvantaging Black, American Indian/Alaska Native, and Latina girls as they move through the system process (see sidebar pp. 22-23).[3] Moreover, 40 percent of girls in the juvenile justice system across the country describe themselves as lesbian, bisexual, questioning/gender non-conforming, or transgender (LBQ/GNCT).[4] While very little is known about the role a girl's sexual orientation or gender identity/expression may play in her arrest, detention, or other system decisions, it is likely LBQ/GNCT girls face discrimination at each decision point.[5]

Arrest and Charging

In 2012, girls represented 29 percent of youth arrested nationwide and their arrests were disproportionately for offenses that pose little or no threat to public safety—such as prostitution or theft—but rather, are connected to poverty and abusive homes, relationships, and communities.[6] In 2012, girls represented 76 percent of arrests for prostitution, 42 percent of arrests for larceny, 40 percent of arrests for liquor law violations, 35 percent of arrests for disorderly conduct, and 29 percent of arrests for curfew violations.[7] Also clearly connected to girls' experiences with violence and abuse in their homes and communities are arrests for domestic offenses (38 percent) and simple assault (37 percent).[8]



Generally, there is a promising national trend of declining arrest rates for youth. However, from 1996-2011 girls arrest rates declined less than did boys arrest rates (42 percent versus 57 percent).[9] From 2003-2012, arrests of boys for simple assault declined by 32 percent, while arrests of girls for the same offense declined by 19 percent.[10] For property crimes, arrests of boys declined 39 percent, but only 29 percent for girls.[11] Clearly, the forces that are driving arrest rates down for boys are not affecting girls in an equitable way.

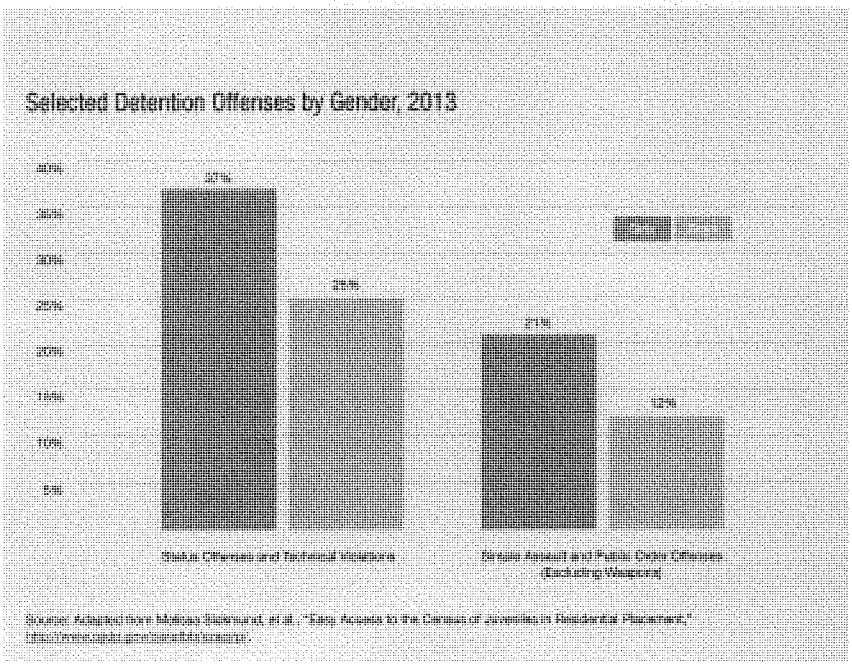
Arrest often leads to referral to court, and multiple offenses can be charged from one incident. Girls represented 28 percent of delinquency court referrals in 2013 and 24 percent of formally petitioned delinquency court cases.[12] The relative rate of formal processing for girls increased 32 percent (11 percentage points) from 1985 through 2013.[13]

The commencement of formal processing limits girls' options for community programming that can help address their environments and behaviors outside the juvenile justice system, and instead sets in motion an often lengthy and complicated court process. Once girls have disentangled themselves from the system, they generally leave with a juvenile record, further limited opportunities for success, and few resources to change their behavioral responses to damaging and unhealthy social contexts. Girls of color are especially vulnerable to being formally charged: in 2013, both Black girls and American Indian/Alaska Native girls were 20 percent more likely than white girls to be formally petitioned.[14] Police, prosecutors, judges, and probation staff are the critical decision-makers at the point of arrest and charging, deciding who is arrested and whether she should be formally charged or diverted from the system.

Detention

Arrest and petitioning frequently lead to detention, driving girls deeper into the system. Detention is harmful for all youth, and the present and future harms resulting from disrupted relationships and social supports, loss of control, and lack of safety are particularly problematic for girls.[15] Nonetheless, nationally girls are consistently detained for status offenses (offenses that would not be considered crimes if committed by an adult, such as truancy or running away), technical violations of probation (violations of the rules of probation, not new offenses), misdemeanors, and other minor offenses that pose no threat to the public and would be more effectively addressed in their communities.

Statistics reveal gender disparity in detention for minor offenses and misbehavior. In 2013, 37 percent of detained girls were locked up for status offenses or technical violations, compared with 25 percent of boys, and 21 percent of girls were detained for simple assault and public order offenses (excluding weapons), compared with 12 percent of boys.[16] Technical violations of probation appear to drive girls—and particularly girls with mental health needs—into detention[17] where they are not given the tools needed to succeed in their communities. Given the proportion of girls detained for minor offenses, lengths of stay in detention are particularly troubling: 25 percent of detained girls remain in detention longer than 30 days and 11 percent remain after 60 days.[18] Among girls in detention, racial and ethnic disparities persist. In 2013, Black girls were 20 percent more likely to be detained than white girls and American Indian/Alaska Native girls were 50 percent more likely to be detained.[19]



Source: Adapted from Melissa Sickmund, et al., "Easy Access to the Census of Juveniles in Residential Placement," [illegible].

Court Processing

Throughout the formal court process, a fragmented legal system and isolated juvenile justice system consistently miss opportunities to take a developmental approach and move girls' delinquency cases into other more appropriate systems—such as child welfare—or out of the formal court process entirely. Gender disparities persist in court processing of minor offenses resulting from harmful social contexts: in 2013 girls comprised 28 percent of juvenile court cases overall, but 40 percent of larceny-theft cases, 37 percent of simple assault or disorderly conduct cases, and 31 percent of liquor law violation cases.[20]

Girls also lack consistent legal representation to address the full range of their issues, including education, trauma, mental health, and family violence, but instead have multiple cases and multiple attorneys who are isolated from one another.[21] Furthermore, court data on youth is often not well integrated; in many jurisdictions courts cannot link dependency and delinquency cases involving the same girl.[22] While confidentiality for youth is certainly a priority, this lack of integration creates a barrier to a holistic approach, inhibits effective communication among agencies, and can make advocacy for less restrictive juvenile justice system involvement more difficult.

Shackling of youth during court proceedings, ostensibly to increase courtroom safety and decrease the risk of flight, remains far too common and is particularly damaging to girls. Thirty states have no limitations on shackling youth in court.[23] The practice is allowed despite the physical and psychological damage it causes to youth and the fact that it interferes with youth's ability to communicate effectively with their attorneys.[24] Shackling can negatively affect girls' self-esteem and sense of fairness, and re-traumatize girls who have been physically or sexually abused or have witnessed domestic violence.[25] Shackling reinforces girls' feelings of powerlessness, and could be a setback in their recovery from trauma.[26] Moreover, adolescent girls may be particularly vulnerable to the humiliation and shame that stems from being shackled in public.[27]

Lastly, once girls are adjudicated and receive a disposition, they typically lose legal representation, as statutes guaranteeing youth counsel typically apply only through adjudication. The lack of post-disposition representation is particularly problematic for the high number of girls who enter detention for failure to comply with technical violations of probation and parole. Without post-disposition representation, girls may be unable to access dispositional services in their communities, address conditions of their confinement, or argue against re-detention for technical violations.[28]

Assessments of state juvenile defense systems reveal common problems with the quality of the representation girls receive as they move through the court process. Juvenile defense as a whole is often marginalized, minimized, and underfunded; youth do not receive counsel at all key stages, including early in their processing and post-disposition; and inadequate training of juvenile defenders, excessive caseloads, and excessive waiver of counsel reduce due process protections.[29] Gender can actually become a barrier to effective representation, as more girls enter the system, but often defenders do not adequately understand their special needs and how the circumstances that bring them into court differ from boys'.[30] Once in court, girls who mistrust their attorneys are likely to feel further loss of control over the court process and a lack of fairness, which is particularly salient to adolescents.[31]

THE NEW JERSEY GIRLS COURTS

"Girls courts" have received a lot of attention in the last decade and take a variety of forms—from girl-only dockets to years-long court-based programming. They are united by a commitment to gender-responsive principles—relationship community, promotion of safety, and empowerment of girls.

Continuity is typically provided through a single judge, who hears and follows all girl cases. A judge may oversee regular group meetings at which girls report their progress, sometimes with their peers or families in attendance. The court's authority is also used to respond to or sanction program violations with community service, restitution, or detention. Some courts expand continuity by employing a consistent cast of court personnel, prosecutors, public defenders, and probation officers, all of whom have both relationships with the girls who appear in court and knowledge of gender-responsive services in the community. Girls court programming might be located within the court, run by probation, or delivered through referrals to community-based organizations.

Girls courts have varied intake criteria. Some focus on girls who are removed (Los Angeles, California) or at risk of trafficking (Alameda County, California), some take girls charged with status offenses or delinquency (Hawaii), and some focus on girls who have already failed conventional probation and for whom the next disposition is likely to be commitment (Bernalillo County, New Mexico). Programming ranges from 24 weeks to two years and common components are family engagement (families are often required to participate), therapy (individual, group, and family), specialized probation officers, peer support, and a competency-building approach.

However, girls courts are not a panacea for girls. Few have been evaluated and there are legitimate concerns that they may net-widen, expanding the reach of the formal juvenile justice system to minor offenses and status offenses that otherwise would not lead to court involvement, increasing the use of detention, and extending case processing time and formal probation supervision paired with a close scrutiny. Girls courts also isolate girls' services within courts, potentially making reentry more challenging once programming is completed. Girls courts that use community- rather than court-based programming may best help girls establish long-lasting supportive relationships within their communities.

The Hawaii Girls Court began in 2004 and is one of the oldest girls courts in the U.S. It is a nine-year program administered through the court. Girls are assigned a probation officer with expertise in gender-responsive programming. Programming includes individual, family, and group therapy and opportunities to build girls' competencies by exposing them and their families to new experiences and skills. Peers participate in a court session every five weeks, providing girls with peer support and helping to improve peer relationships. Hawaii Girls Court is one of the few girls courts to conduct ongoing evaluations. Evaluations from 2005 to 2011 show reduced law violations, fewer status offenses, lower instances of running away and reduced length of runaway episodes, and reduced commitments during the year of programming and up to six months after. However, during the year of programming, Hawaii Girls Court participants have more shelter admissions and shelter days and more admissions to and days in detention than their non-Girls Court peers. These detention and shelter admissions decline following the Girls Court year. Evaluators conclude that the increased scrutiny accompanying Girls Court participation in turn leads to increased short-term detention and shelter use.[1]

Properly designed girls courts may be a way for systems to better respond to girls in the juvenile justice system. However, without a focus on avoiding net-widening and without ongoing evaluation, girls courts risk expanding the number of girls in the system and increasing system intervention in the possible delinquency of girls.

Post-Adjudication

Probation

Probation is the most common post-adjudication disposition for all youth and in 2013, 67 percent of adjudicated girls received a disposition of probation: 67 percent of white girls, 67 percent of Black girls, 60 percent of American Indian/Alaska Native girls, and 81 percent of Asian/Native Hawaiian or Pacific Islander girls.[33‡] Accountability models of probation that hold girls to court-imposed rules such as curfews and frequent reporting—with little to no focus on the social, psychological, and physical challenges they face—result in disproportionate detention of girls for technical violations of these rules.

Probation officers typically receive no training on the specific needs of girls, and gender and cultural stereotypes can influence the treatment of girls and outcomes. One study of girls on probation in Arizona found that probation officers often perceived girls as manipulative, whiny, promiscuous, and not truthful.[34] Rather than connecting these perceptions to girls' social contexts, such as sexual and physical abuse or poverty, the probation officers treated them as personality traits, disconnected from girls' needs; therefore, girls' needs were not directly addressed.[35] Black girls may face further discrimination: research has shown that probation officers may attribute causes of crimes committed by Black youth more often to internal deficits (e.g., personality flaws), while they attribute external deficits (e.g., coming from a broken home) more frequently to white youth.[36] These attributions can then affect probation officers' assessments of the risk a girl poses, as well as sentencing recommendations. Even when probation officers do recognize the unique needs of girls and the underlying causes of their behavior, they often lack the ability to find appropriate gender-responsive programming due to poor connections with community resources or shortages of programs for girls.

Out-of-Home Placement

In 2013, 19 percent of adjudicated girls were placed outside of the home.[37] Among committed girls who were removed from their homes, 88 percent were placed in a locked facility.[38] While the overall number of girls placed in state "deep-end" secure facilities is declining, states vary in their handling of the declining population. A few states have voluntarily closed or been forced to close their hardware-secure girls facility due to allegations of abuse or declining need (e.g., Iowa, Alabama). In some cases, states place girls in county detention facilities after adjudication (e.g., Minnesota) or contract with private corrections providers to run secure facilities in their state (e.g., Florida, Pennsylvania). Other states have a very small number of girls in their deep-end secure facility (e.g., Massachusetts, Rhode Island) or have no such facility. Instead, some states send girls to out-of-state facilities, where they are far from their families and conditions may be difficult to monitor (e.g., Delaware, California). Some states have collapsed medium- and high-security post-adjudication placements into campus-like facilities with different housing units (e.g., Nebraska) or house girls in a unit of a larger boys secure facility (e.g., Virginia). And one state, Missouri, rejects girls deep-end secure institutions as a matter of policy, opting for smaller non-secure community-based placements when placement is deemed necessary.

The vast majority of girls who remain in deep-end secure placements are there as a result of experiences of violence and trauma and the failure of less secure placements to adequately address their needs; few have been found delinquent for serious person offenses. Yet, the focus of deep-end secure placement often remains on punishment rather than healthy development and healing, which runs directly contrary to what is known about the causes of girls' behavior and the social supports they need to overcome issues of violence and trauma. Girls may have unnecessarily long lengths of stay in facilities due to a lack of community-based alternatives for reentry services, family conflict making return home more difficult, high concentrations of mental health needs, and a general lack of understanding of how to best address girls' needs.

Sending girls to institutions is harmful to their development and does not improve public safety.[39] In the deep end of the juvenile justice system, girls may confront maltreatment, sexual abuse, inadequate education, and lack of appropriate mental and physical health care, all of which can negatively affect their development.[40] Likewise, institutional settings do not provide girls opportunities to develop healthy peer relationships, which are so critical to their development, but instead subject them to social isolation.[41] This lack of attention to healthy development in secure facilities leads to high rates of recidivism, with girls leaving institutions in worse shape than when they went in.[42]

‡ Although many jurisdictions face ethnic disparities in arrests and juvenile justice processing for Latinas, at the time of this writing, Hispanic ethnicity has not been incorporated into the OJJDP national estimates for juvenile case activity and hence there is no national RRI (relative rate index) data for Latinas.

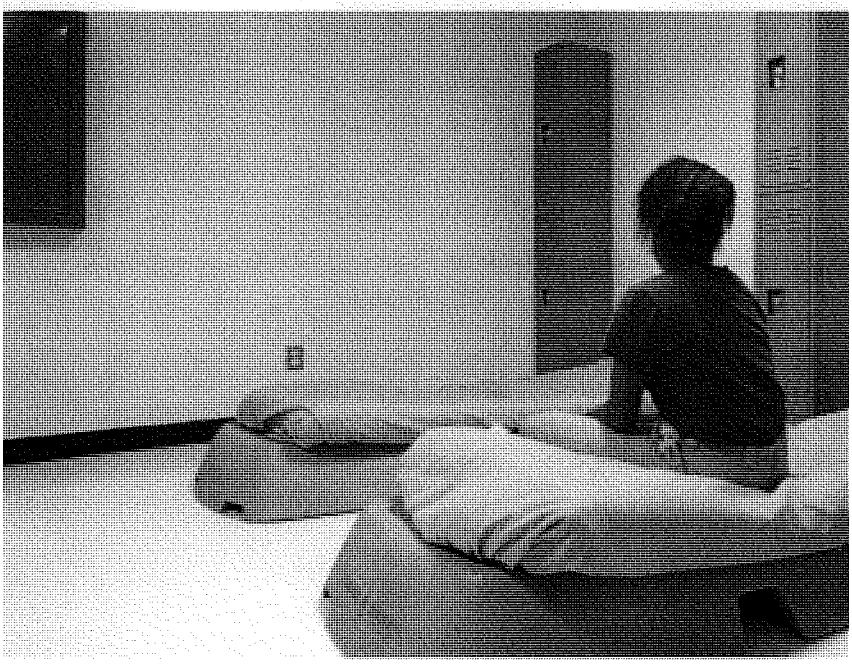
Lastly, institutions are expensive. A recent survey found that the average cost for deep-end incarceration of youth is $407.58 per day, or over $148,000 per year.[43] These costs are just for institutional care; the price increases further due to social costs related to decreased education, lost future earnings, lost tax revenue, and increased reliance on public benefits.[44]

Despite the decline in the number of girls in juvenile justice systems and the failure and cost of secure confinement for girls, some states are opening new facilities (e.g., Connecticut, Alabama) or continue to place large numbers of girls in secure placement (e.g., Texas, Florida). Connecticut opened a new 12-bed secure girls facility, called the Pueblo Unit, giving the state a total of 24 secure girls beds. The Pueblo Unit cost the state $2.4 million. The state justified the construction by citing the number of girls who ran away from less secure placement, missing the opportunity to take a developmentally-appropriate approach to these girls and address the root causes of why they ran away. In January 2015, there were only four girls in the facility.

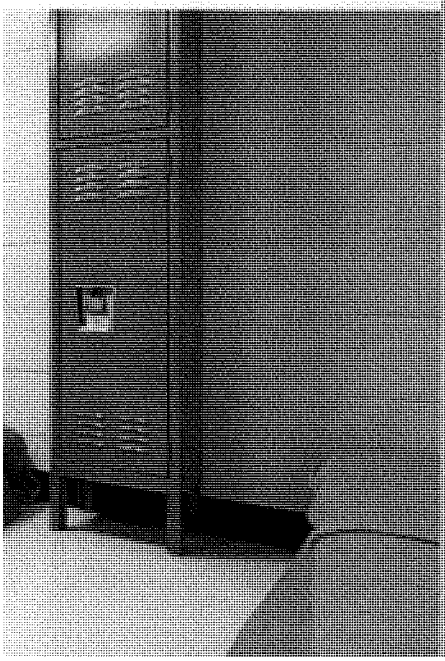
Girls in the Adult System

Thousands of youth are prosecuted in the adult system each year, some automatically through age of jurisdiction laws, some via prosecutorial or judicial discretion, and others through statutory exclusion laws that mandate transfer of cases involving certain crimes. All states have one or more of these mechanisms to send youth to adult court.

Data on girls in the adult criminal system is elusive. There is no accepted count of girls in adult corrections due to state variation in age of adult jurisdiction (e.g., girls are considered "adults" in New York at age 16, but are not considered "adults" in Massachusetts until age 18) and variation as to states' mechanisms for prosecuting minors in the adult system. However, the Bureau of Justice Statistics (BJS) is conducting the Survey of Juveniles Charged in Adult Criminal Courts, to be released in 2016. The BJS 2014 mid-year one-day count estimates 300 girls under age 18 were being held in adult jails either as juveniles or awaiting trial as adults.[45]



What is clear is that girls who are placed in adult jails and prisons are unlikely to receive the services they need to promote healthy development and are at risk of violence and abuse.[*] Girls in adult facilities do not receive even the bare minimum of rehabilitative and educational services that are provided in the juvenile justice system, and are instead placed in an environment more focused on punishment and control. These girls are at greater risk of suicide, physical and sexual abuse, isolation, and disruptions to their development, without any evidence that sending youth to the adult system actually produces safer communities.[*] The Prison Rape Elimination Act of 2003 (PREA) and its subsequent 2012 regulations extend sight and sound protections to youth under age 18 in adult facilities. However, due to the amount of time and resources required for some states to come into compliance with PREA and the physical limitations of adult prisons and jails—as well as a lack of willingness on the part of other states—PREA's protections do not yet fully safeguard girls (or boys) in adult facilities.



THE CASE OF CONNECTICUT'S JANE DOE

The case of "Jane Doe" in Connecticut highlights a particularly disturbing trend in the use of adult prisons for girls. In 2014, the Connecticut Department of Children and Families (DCF), through a little used law, petitioned the juvenile court to place Jane, a 15-year-old transgender girl of color, in Connecticut's adult women's prison. Connecticut does not have a separate facility for girls under age 18 in the adult system. It does have such a facility for boys, so transferred girls are sent to the one state prison for women, a medium-security facility that houses women convicted of the most serious crimes. Between December 2006 and July 2008, nearly 200 girls were placed in the prison, many of them for violations of probation, running away, or fighting.[*]

Jane, however, had never been charged with an adult crime, had no open child welfare cases, and had been charged with misdemeanors. She had a long history of being abused and sexually trafficked, including labor that Jane was also forced to do at the hands of employees of DCF. Citing concerns with Jane's aggressive behavior—which was clearly tied to her traumatic past—and DCF's inability to meet her needs, DCF sent her to the women's prison, where she was placed in order to comply with federal law mandating the separation of youth and adults.

Following a months-long public outcry, Jane was moved to a treatment facility in a neighboring state and then to solitary in a secure facility for boys. In defiance of her gender expression as a girl, Jane's case is a stark example of the way juvenile justice systems too often prioritize control over treatment, disregarding the clear need for a developmental approach that focuses on the totality of a youth's environment and social context, and instead causing further trauma through deprivation of liberty and humanity.

Feeder Systems as Points of Entry into the Juvenile Justice System

While the focus of this section has been the process by which girls enter and get stuck in the juvenile justice system, a closer examination of exactly how girls are "fed" into the juvenile justice system reflects broader problems with the social systems that are supposed to be helping girls and addressing the social and environmental challenges they face. Girls in the justice system frequently have prior, unsuccessful contact with these "feeder systems," such as education, child welfare, and mental and public health. These systems fail to adequately meet girls' needs and foster their healthy development, and instead criminalize the misbehavior they should be working to address—blaming girls for circumstances beyond their control.

There are well-documented racial and ethnic disparities in the ways feeder systems move girls into the juvenile justice system, reflecting the over-surveillance and policing of many girls of color.[49] For example, in 2013 Black girls were almost three times as likely as white girls to be referred to juvenile court and American Indian/Alaska Native girls were 1.4 times more likely to be referred.[50]

Law Enforcement

For many girls, entry into the juvenile justice system is due to over-policing of their normative adolescent behaviors or misbehaviors that are more appropriately addressed by programs in the community or other systems (e.g., mental health, education), rather than the justice system. Mere police presence can increase the number of youth who are arrested. For example, research on school resource officers has shown that an increased presence of police in schools leads to increased arrests of students.[51] Law enforcement policies and practices can sweep girls into the front door of the justice system for behaviors that would be better addressed elsewhere; once they are there, it's hard to get out. Girls are frequently called to the attention of police for shoplifting, truancy, running away, family arguments, "prostitution,"[§] fights at school, or drug use. Law enforcement policies and officer training can then dictate how the situation is handled—whether the officers turn to arrest and punishment, or find ways to address the problem outside the justice system, given an understanding of girls' social contexts and development.

Despite their role as first responders to incidents involving youth, most police do not receive adequate training on adolescent development, how to communicate with teens, and how to recognize and respond to youth with mental health and trauma-related needs—all of which are important when responding to girl behavior. Results from a 2011 survey revealed that only two states' police training curricula included a focus on youth development, and only eight states provided officers with best practices for interacting with adolescents.[52] Moreover, despite higher arrest rates for youth of color, only eight states focused a part of police training on reducing disparities.

§ Technically, girls in the vast majority of states can be and are charged with prostitution and prostitution-related crimes while they are minors. However, we are placing "prostitution" within quotation marks to reflect our view that these girls are sexually exploited minors rather than culpable for the intentional crime of trading sex for a fee.

Child Welfare

The child welfare system is designed to support youth from troubled homes, and, if functioning properly, can help keep girls out of the juvenile justice system by addressing the underlying family violence or neglect that can lead to girls to make bad decisions. However, the child welfare system as a whole is ill-equipped to provide girls and their families with the services they need. Moreover, child welfare officials or placements may directly funnel girls into the justice system by referring them to law enforcement or court for problem behaviors, even when those behaviors are manifestations of child maltreatment. Hence, there is a growing population of so-called "crossover" or "dually-involved" youth who experience both child maltreatment and delinquency or are part of both the child welfare and juvenile justice systems.

According to data from 13 jurisdictions that were the original participants in the Crossover Youth Practice Model (a systems-level model for addressing the needs of crossover youth), girls are especially prominent in the crossover population—comprising a greater share of all crossover youth (37 percent) than of youth charged only with delinquency (21 percent of arrested youth).[53] Girls made up 41 percent of child welfare-involved youth subsequently arrested for delinquency and 47 percent of child welfare-involved youth subsequently referred for a status offense.[54] Moreover, African American youth were the most over-represented population of crossover youth in the original jurisdictions.[55] Consistent with other data on the number of girl offenses resulting from family conflict, approximately one fifth of the charges among crossover youth were related to the youth's living situation.[56]

Involvement in the child welfare system can create additional problems for girls and negatively affect their development. Girls in the child welfare system who are removed from their homes can suffer residential instability for years, moving among foster or group homes. Girls in placement often lack a consistent adult role model, switching schools repeatedly and struggling to learn to adapt to new communities and social environments. Not surprisingly, these challenges can result in behaviors such as running away or substance use, which may be girls' efforts to cope with their challenges, but which often lead to justice system involvement.

Status Offense

Many girls who commit status offenses are initially served through child welfare systems. States have created status offense or "child in need of services" systems in an attempt to address behavior before it leads to more serious juvenile or criminal justice system involvement. Nearly 48,000 girls were petitioned and formally processed for status offenses in 2011.[57] Girls make up a substantially larger share of status offense cases than delinquency cases: in 2011, girls were 28 percent of delinquency cases but 41 percent of status offense cases.[58] Furthermore, for certain status offenses, rates for girls are even higher. For example, 53 percent of runaway cases in 2011 involved girls (see sidebar, p. 29).[59]

Unfortunately, the solutions offered by status offense systems too often fail to provide girls with services to address the roots of their behavior and nurture their healthy development. Instead, a girl may be separated from her family or required to comply with court-ordered rules that are unrealistic given the girl's social context. Fifty-eight percent of adjudicated girl status offense cases in 2011 resulted in formal probation, and 7 percent resulted in out-of-home placement.[60] Removal from her family and home community, socialization with other girls who are struggling, and high expectations for improved behavior—minus the supports needed to achieve that—very often lead a girl to more trouble, including offenses chargeable in the delinquency system.

While judges are prohibited by the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) from locking girls up for status offenses, there is a powerful exception to this rule: girls who do not comply with a valid court order (VCO)—such as an order to go to school or obey a curfew—may be detained.[61] This "VCO exception" creates a direct gateway from the child welfare-focused status offense system to the delinquency system. Through the VCO exception, courts create a set of unreasonable expectations and raise the stakes immeasurably by linking girls' behavior to their freedom. In 2014, nine states used the VCO exception between one and 100 times, and 12 states used the VCO exception more than 100 times. Kentucky used the VCO exception 1,048 times, far more than any other state.[62]

Education

Schools are increasingly recognized as problematic feeders of youth directly into the juvenile justice system, as zero-tolerance and harsh school discipline policies have created a "school-to-prison pipeline." Girls are referred to court directly from their schools for fighting with their peers, disrupting class, and talking back—normal and predictable adolescent girl behaviors, especially for girls who have experienced trauma. Prior to the crackdown in school discipline in the 1990s, these types of fights and misbehavior were handled by school officials, rarely resulting in court referral. However, one recent study of referral practices in five states found that one in 10 youth in the delinquency system had been referred by schools; the study notes that this number may actually be an underestimate of the rate of referral from schools.[63] The researchers additionally found the odds of girls being referred by schools have increased over the past ten years.[64]

While some states are beginning to roll back zero-tolerance policies, use of these policies over the past two decades has contributed to the number of girls in juvenile justice systems nationally. Many states deploy school resource officers (SROs) to enforce these policies, which significantly increases arrests for disorderly conduct, fighting, or threats—common offenses for girls.[65] Girls have stated that SROs make them feel less safe and less likely to attend school.[66] Schools also push girls into the justice system through exclusionary discipline—suspension, expulsion, and referral to alternative schools—that disengages girls from education and can lead to increased problem behavior. And, girls may become disengaged from school due to caretaking responsibilities at home, pregnancy and parenting, assault and harassment in school, and counseling needs that are overlooked by schools.[67]

Responses to truancy also drive girls into the juvenile justice system. In each year from 1995 through 2011, the rate of girls truancy petitions was higher than the rate of girls petitions for any other status offense category.[68] Truancy is often an indication of other problems in a girl's life—strained relationships with peers, harassment at school or on the way to and from school, pregnancy or parenting responsibilities, untreated trauma, or unidentified learning disabilities.[69]

Mental and Physical Health

Girls in the juvenile justice system have high levels of mental and physical health problems, a reflection of a failure on the part of health systems to fully address these girls' needs. Some studies have found that nearly 80 percent of youth with mental health needs in the U.S. go without services, with certain groups of youth, such as Latinos or the uninsured, experiencing even higher rates.[70] For girls with mental health needs, the juvenile justice system becomes a proxy for the mental health system in too many cases.[71] Higher percentages of girls than boys in juvenile facilities report an above-average number of mental or emotional problems and traumatic experiences: 42 percent of girls (versus 22 percent of boys) report past physical abuse, 44 percent of girls (versus 19 percent of boys) report past suicide attempts, and 35 percent of girls (versus 8 percent of boys) report past sexual abuse.[72] Additionally, 71 percent of girls in juvenile facilities report recent substance-related problems.[73] Girls fall through the large cracks in the mental health system and end up in the juvenile justice system, where the focus is on symptoms rather than causes. Behaviors such as substance use or aggression at home present clear opportunities for public health rather than juvenile justice solutions, yet girls engaging in these behaviors often come to the attention of law enforcement instead, which is likely to take a criminal justice approach.

Girls in the juvenile justice system often come from high poverty, urban environments that may contribute to poor physical health[74] while offering less access to health care. When girls enter the justice system, they frequently become disconnected from community health services, which can have long-term consequences. Federal law and policy prohibit states from using Medicaid or Children's Health Insurance Program (CHIP) dollars to pay for health care for "inmates of a public institution"; this prohibition applies to youth in detention and commitment facilities with some limited exceptions.[75] This "inmate payment exception" or "inmate exclusion provision" causes many girls to lose their health coverage if they are placed in facilities.[76] The prohibition does not mean youth become ineligible for Medicaid; nevertheless, many jurisdictions immediately terminate coverage when girls are detained or committed—even when only for short periods of time—negating any chance of Medicaid coverage for those services that are eligible and causing great difficulties with Medicaid reenrollment and connection with services and public health supports upon reentry to the community.

Domestic and Intimate Partner Violence

An increasing number of girls are being arrested for violent behavior in the home. In 2012, girls comprised 38 percent of arrests for domestic offenses and 37 percent of arrests for simple assault.[77] Researchers have attributed the increase in girls assault arrests over the past 15 years to changes in law enforcement policies, especially with regard to domestic violence.[78] Twenty-three states have domestic violence laws making arrest mandatory in all cases of domestic battery or family-based assault; nine states have pro-arrest laws (which establish a preference for an arrest in a domestic violence situation); and 19 states give law enforcement officers discretion, although local policies and police practice in many of these states favor arrest. Mandatory and pro-arrest laws and policies are designed to address adult intimate partner violence; however, they are routinely applied to intra-family conflicts for which such a response is inappropriate.[79] Only five states' domestic violence laws make a specific exception for youth or qualify the rigid policies in some way for minors.

As a result, many girls are arrested for fights in their homes stemming from family chaos—girls may become involved in a domestic fight when defending themselves against victimization or as part of a pattern of violence and chaos among family members (see sidebar, p. 20). This leads girls to contact with law enforcement, at which point they are treated as aggressors rather than victims. Despite a consensus that these girls and families are a better fit for the child welfare system, girls are pushed into the juvenile justice system where they and their families are less likely to receive adequate support to address the underlying causes of family violence.

Housing Policies and Residential Instability

Housing and child welfare policies that result in residential instability negatively impact girls' abilities to maintain consistent social, educational, and health supports and are closely connected to girls' risk of involvement with the juvenile justice system.

Girls' and their families' access to existing housing may be restricted due to criminal records or presence on sex offender registries. Moreover, a paucity of housing resources catering to sub-populations of system-involved girls, such as victims of domestic violence or sex trafficking, pushes girls into the juvenile justice system due to a lack of alternative housing. Pregnant and parenting girls face similar difficulties with housing stability; studies show 10 percent of homeless girls living on the street or in shelters are pregnant (see sidebar, p. 25).[80] Pregnant and parenting girls are offered no formal protections or support through any national housing policy. This housing instability can directly feed girls into the justice system by leading them to increasingly engage in survival behaviors such as "prostitution," selling drugs, or stealing.[81]

Girls in the child welfare system are also profoundly impacted by housing policies. The instability of foster care and group home placements can cause ongoing disruption to girls' lives, making them more vulnerable and more likely to engage in behaviors leading to justice system involvement.[82] Through the John H. Chafee Foster Care Independence Program and the Fostering Connections to Success and Increasing Adoptions Act of 2008, the federal government has taken some steps to help older youth who are transitioning out of the foster care system, but limitations and conditions continue to inhibit permanence and stability for older girls who are also involved in the juvenile justice system. For example, the Fostering Connections Act is tied to Title IV-E Social Security funding for qualifying foster care placements, which specifically excludes detention centers and facilities for youth who have been adjudicated delinquent.[83] For the many crossover girls involved in both the child welfare and juvenile justice systems, this exclusion introduces a significant hurdle—if a crossover girl happens to be detained or in a juvenile facility on the day of her 18th birthday, she is ineligible for state-funded foster care as she transitions to adult living. Additionally, both federal laws reserve assistance (in policy and in practice) for youth who are in school or working, thereby excluding girls who are most at risk of facing significant difficulties when transitioning to adulthood.[84]

IV. Why Focus on Girls? The Long Overdue Need to Address Deeply Rooted Trauma and Inequity

A. Traumatic and Unhealthy Social Contexts Result in Behaviors that Drive Girls into the Juvenile Justice System

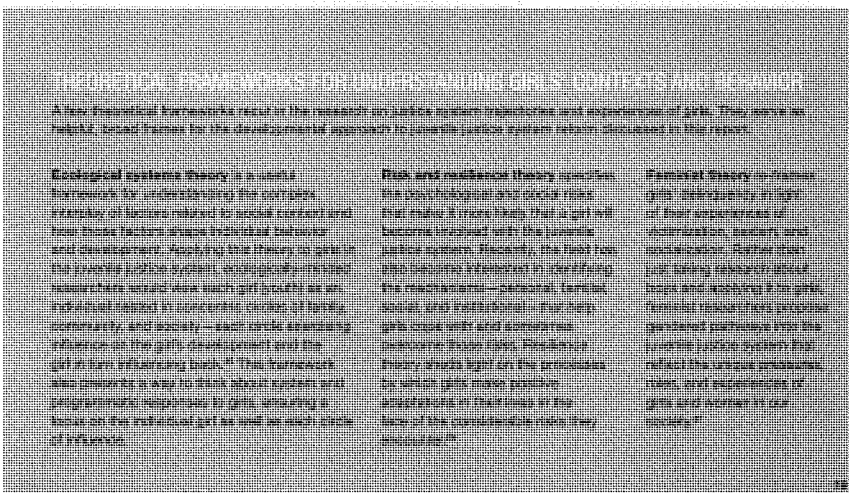
Although the vast majority of research on causes of delinquency and effective interventions has focused on boys, there has been a recent surge of research about girls. While more research is certainly needed, social context in every sphere—family, peers, community, and society—has clearly emerged as particularly influential on girls' development and behaviors.

Below, ecological systems theory, risk and resilience theory, and feminist theory help guide an analysis of:

a. The **social contexts or environments** that coexist with delinquency for girls; and

b. The **behaviors** that are driven by those traumatic social contexts and lead girls into the juvenile justice system.

This analysis helps to explain girls' behavior and the manner in which trauma from abusive and unhealthy family and peer relationships, unhealthy and dangerous living conditions, and failed structural supports mold girls' development. In order to produce better outcomes for girls, systems must craft reforms that directly address the root causes of their behavior and provide an alternate, non-justice-system path for girls' healthy development and healing.



Social Contexts and Girls

While there is overlap among the adverse social contexts or environments that coexist with delinquency in boys and girls, research suggests that due to their unique development and socialization, girls might be more vulnerable to certain negative outcomes from these contexts. For too many girls, adversity in their homes, in their communities, and in the way they experience society is traumatizing. This trauma—with its attendant psychological, emotional, and physical challenges, long-term health complications, and adversity in adulthood—plays a particularly powerful role in the lives of girls and young women.

Conflict and Abuse at Home

Violence and abuse at home—especially sexual abuse—are strong predictors of juvenile justice involvement in girls.[88] Girls in the justice system experience sexual and physical abuse in their homes at extremely high rates—they have reported experiencing sexual abuse at 4.4 times the rate of their male peers[89]—and that exposure has been connected to delinquency and later crime, particularly later aggression.[90] Family conflict in general has a heightened impact on girls. This is likely due to a combination of the high rates at which girls experience family abuse and conflict to begin with, as well as the exacerbated effect of family conflict on them as a result of spending more time in the home and their gendered socialization to be particularly concerned about relationships and family.[91]

WHAT DOES RESEARCH SAY ABOUT FAMILY VIOLENCE?

A national multi-site study found that girls accounted for 40 percent of adolescent domestic battery ADB arrests, which accounts that overall rate of arrests by 17 percent.[92] Under the adult domestic battery, repealed under the Violence Against Women Act, which is characterized by a dynamics of power and control, adolescents may have less power in the family structure and their involvement in domestic disputes is often attributed to family chaos and conflict. Recognizing this, the study aimed to validate an Adolescent Domestic Battery Typology, the ADBTT, that can be used by jurisdictions to tailor their responses to youth charged with ADB and avoid the broad brush of arrest and detention that is currently the practice in most jurisdictions.

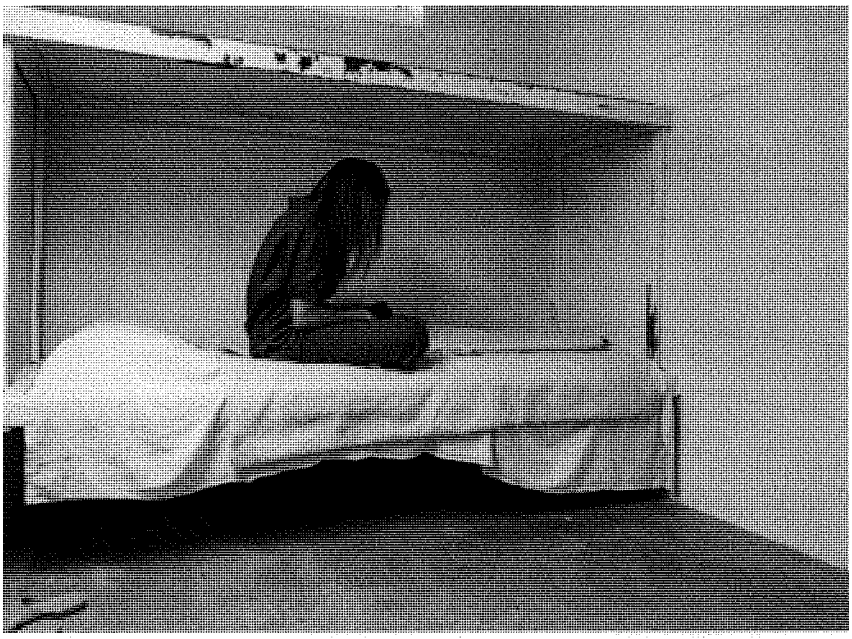
The study identified four typologies of adolescent domestic battery:

- Defensive: the youth defends him or herself from abuse by a parent or caregiver;
- Instrumental: criminal stress resulting in a crime for a reward;
- Family Chaos: generalized chaos in the home resulting in the ADB; and
- Developing: youth who have a more typical profile of delinquency and are most likely to commit another offense.

The study looked for differences across the typologies on gender and age. No race differences were found, but the researchers did find gender differences:

- A higher percentage of girls (68.1 percent) than of boys (56.5 percent) were in the defensive type that girls (68.5 percent), although among girls the highest proportion did fall within the developing type.
- Girls (17.8 percent) were more likely than boys (9.6 percent) to be in the instrumental type than boys (9.6 percent).
- Girls were also more likely to be in a 40% proportion of youth who did not fit any of the four typologies.[93]

The ADBTT study is notable for its gender analysis, which will allow practitioners to tailor a developmental response to girls Please to a fuller understanding of the complex reactions in their behavior. Given the developmental and family systems, understanding of adolescent domestic violence based, one size fits all approaches or one-sided policies make little sense.



Community Violence

Youth from both urban and rural communities report witnessing violence at extremely high rates. Over 85 percent of urban youth report witnessing some form of community violence and, consistent with previous findings, a 2004 study found that 61 percent of rural youth had witnessed at least one violent act and 45 percent had witnessed multiple violent acts.[94] While boys are more likely than girls to be exposed to community violence, girls experience different kinds of violence and may react to exposure to violence differently.[95] For girls, community violence is linked to sexual harassment and consequent feelings of sexual vulnerability in their communities. Indeed, many girls live in "coercive sexual environments"—communities where harassment, domestic violence, and sexual exploitation are a part of everyday life and are even normalized.[96] In poor, distressed communities, both girls and boys are subject to violence related to gangs and drug trafficking, but girls additionally suffer traumatic effects from sexual harassment and violence and live in constant fear.[97]

Girls who are exposed to community violence—as both victims and witnesses—have higher rates of PTSD (post-traumatic stress disorder), depression, anxiety, and substance use, often co-occurring with one another.[98] Exposure to violence and harassment can increase family conflict, lead girls to feel unsafe in their neighborhoods, cause girls to disengage from their communities, and increase the risk of delinquency.[99] Supportive parents and teachers can help ameliorate these effects, but many girls lack this support to cope with the trauma.[100]

Physical and Mental Health

Girls who enter the juvenile justice system often have poor physical and mental health. According to the Survey of Youth in Residential Placement, girls in placement report significant health needs related to illness, vision, dental, and hearing.[101] Sexually transmitted diseases (STDs) pose a significant health risk for system-involved girls who are sexually active and have inconsistent access to health care; for example, the Centers for Disease Control found that in 2011, 15.7 percent of girls and young women in selected juvenile correctional facilities tested positive for chlamydia (compared with 8.3 percent of girls and young women aged 15-24 years in the general population), and 4.4 percent tested positive for gonorrhea (compared with .7 percent of girls and young women aged 15-24 in the general population).[102]

Moreover, girls in detention have high rates of PTSD and there is evidence that vulnerability to PTSD may be gendered.[103] This may be connected to the concentration of interpersonal trauma among these girls and girls' heightened sensitivity to relationship stress.[104] The Northwestern Juvenile Project, a longitudinal study of 1,829 youth detained in Cook County between 1995 and 1998—including 657 girls—found that almost three-quarters of detained girls had one or more psychiatric disorder and 57 percent met the diagnostic criteria for two or more disorders.[105] Depression and PTSD were particularly prevalent, both of which are often linked to experiences of trauma.[106]

For girls who enter detention, significant physical and mental health consequences continue into adulthood. The Northwestern Juvenile Project found that before age 29, girls who had been detained were nearly 5 times more likely to die than non-detained youth and young adults; Latinas were 9 times more likely to die. [107]

Sexism, Racism, Homophobia, Transphobia, and Historical Trauma

Societal-level forces are risk and resilience factors for girls and all youth. For girls in the justice system, experiences of sexism, racism, and homophobia contribute to their risk of problem behaviors by complicating girls' identity development in adolescence and contributing to feelings of vulnerability in their schools and communities. For many Black and American Indian girls, this is further complicated by the individual and community-level impact of generations of historical or intergenerational trauma.

Intersectional Theory: Lens of Girls' Experiences of Identity

Intersectional theory looks at how the intersection of different bases of identity begin on individual experiences. Gender, race/ethnicity, sexual orientation, gender identity, and class have a collective effect on how girls experience their social contexts and, in turn, how they perceive interpersonal safety. It also provides a lens for examining how girls experience the juvenile justice system and how the system responds to and affects girls' different identities.

Gender and race intersect to create categories of girls who are accorded authority by certain system actors and protection. Existing patterns of both sexism and racism cast girls in their effect on girls of color, increasing their chance of arrest and moving them deeper into the system. For example, Black girls are the fastest growing segment of the juvenile justice system, and in 2013, Black girls were almost three times as likely as their white peers to be referred to court for due process. However, reflect of this disparity from intersectional efforts to reduce gender or racial and ethnic disparities, girls of color are caught between the two, marginalized because they don't fit neatly into one category or the other and have run into obstacles that result from different choices of intervention. Girls of color may suffer a cumulative disadvantage based on historical trauma related to racism and poverty, coupled with struggles stemming from recent traumatic experiences, family stress, and environmental stress—particularly vulnerable for girls.

Data on the experiences of Black girls in schools should further girls' or how intersectionality can come into play for girls. Researchers have found striking differences in the ways school discipline is applied to Black girls versus white girls. Black girls are particularly vulnerable to policies on dress, and the juvenile justice system and are subject to inconsistent, stereotyped-based forms of discipline—suspended 6 times as often as white girls.[1] Furthermore, despite representing less than 17 percent of all female students, Black girls make up 45 percent of girls arrested at school. These disciplinary measures are often tied to racial and cultural biases or subjective expectations of what makes a "good" girl.[2] While Black boys are subject to discipline and court referrals more often for perceived threats to safety, Black girls are disciplined for nonconformity with standards of white, middle-class femininity—for being gratuitously or deeply that wearing revealing clothing and being perceived to be insubordinate, or being defiant and challenging those in authority.[3] The intersection of gender and race creates a unique experience for Black girls, subjecting them to notably different—and harsher—treatment than white girls.

LGBQ/GNCT youth, however, face an aggregate risk profile that is more significant. Girls provide another example of the importance of intersecting layers of identity. LGBQ/GNCT girls experience different and more harmful social contexts than their straight and gender-conforming peers, including higher rates of abuse and homelessness. A study of youth in California's juvenile justice system found that 18 percent of LGBQ/GNCT girls had been removed from their homes because someone was hurting them, compared with 10 percent of their straight and gender-conforming peers.[4] The same study found that 40 percent of LGBQ/GNCT girls had been homeless, compared with 30 percent of their straight and gender-conforming peers.[5] LGBQ/GNCT girls face additional challenges in school. 19 percent of LGBQ/GNCT girls in the California juvenile justice system have been suspended or expelled prior to juvenile incarceration,[6] and in their homes they experience high rates of family discord that may lead to adolescent domestic violence.

These differing social contexts presumably play a role in driving greater numbers of LGBQ/GNCT girls into the juvenile justice system. According to a 2015 survey of youth shelters across the country, 40 percent of girls in the juvenile justice system identify as LGBQ/GNCT.[7] And a recent California study found higher rates of detention and incarceration of LGBQ/GNCT girls for certain offenses: 41 percent of LGBQ/GNCT girls were detained or incarcerated for status offenses and 8 percent were detained or incarcerated for sexual exploitation, compared with 31 percent and 1.5 percent of their straight or gender-conformed peers, respectively.[8] Once in the juvenile justice system, LGBQ/GNCT girls report higher levels of self-harming behavior and are more likely to be disconnected (absent, runaway, victims of violence and sexual victimization, and be placed in isolation.[9]

While there is increasing awareness of the prevalence of girls of color and LGBQ/GNCT girls in the juvenile justice system and the unique challenges and dangers they face, schools still lack a deeper understanding of how exactly these and other layers of girls' identity bear on their school problems and how their behavior. Understanding the various layers of girls' identity is identifiably complex. For example, a number of LGBQ/GNCT girls of color divulge that they have further differing experiences than their white LGBQ/GNCT peers or straight and gender-conforming girls of color. For instance, 66 percent of LGBQ/GNCT girls in the juvenile justice system are girls of color, and Black LGBQ/GNCT girls are incarcerated at higher rates than white LGBQ/GNCT girls.[10]

In order to craft solutions that are effective and affirming for girls as a group, introducers must examine the effects of girls' layers of identity at each stage of the juvenile justice system—from the policies and practices that usher girls into the system to begin with, to the way girls are treated in the days and of the system, to the resources provided to girls when they are released. Intersectionality makes it clear that just as a system designed for boys will not meet the needs of girls, a one-dimensional approach to the girls will also not be effective. Rather, researchers must employ an intersectional lens and be tailored to the needs of individuals, based on an informed, nuanced understanding of girls' identities and experiences.

Poverty

Both family and neighborhood poverty are well established as causes of poor mental, emotional, and behavioral outcomes for children and youth.[122] Poverty, of course, is tied to and feeds into other unhealthy and damaging social contexts for girls—poverty is associated with family conflict, exposure to violence, exposure to discrimination, and residential instability.[123] The stress of poverty compounds upon itself, and can lead to significant challenges for girls, who are more vulnerable to stress in the family, and particularly susceptible to anxiety and depression stemming from poverty-related stress.[124] Girls living in poverty are at higher risk of substance use, pregnancy, dropping out of school, emotional and social challenges, acute and chronic stress, deficits in cognitive development, poor physical health, and safety issues.[125] Poverty has been shown to put girls at risk for involvement with the juvenile justice system, and girls from poorer neighborhoods are more likely to be charged with delinquency.[126]

PREGNANT AND PARENTING GIRLS AND YOUNG WOMEN

Girls who are pregnant and parenting face unique and additional struggles in their communities. After they enter the juvenile justice system, and upon release from the system, Social-economic status, family structure, race and ethnicity, neighborhood context, family violence, and the quality of parent-child relationships can all affect the likelihood of a girl becoming pregnant, with girls from poor neighborhoods who, in the main dependency, girls who have been victims of childhood abuse, girls in foster care, and girls who engage in substance use being especially vulnerable.[11] Research has found that pregnant mothers suffer more distress than their non-parenting peers before they become pregnant and may suffer additional distress from their experiences as parents.[12] Teens who become pregnant or who are parents are at increased risk of disconnection from school. 30 percent of girls who drop out of high school cite pregnancy or parenting as a key reason for doing so, and girls who become mothers before age 18 are far less likely to earn a diploma by age 30 than their non-childrearing peers. 51 percent versus 82 percent.[13] Teen mothers are more likely to receive public assistance, earn less as adults than women who were not teen mothers, and are at greater risk of raising children with health problems.[14]

Despite their obvious high need, immediacy, little is known about the numbers and treatment of pregnant and parenting young women in the juvenile justice system.[15] According to the Survey of Youth in Residential Placement (SYRP) conducted in 2003, 9 percent of girls in custody had children, compared with 4 percent of female youth in the general population,[16] and 3 percent of girls were pregnant.[17] Adverse Childhood Experiences (ACE) research conducted by the National Crittenden Foundation found that young mothers in the juvenile justice system had experienced more cumulative adverse childhood experiences than their non-parenting peers.[18] While it is clear that the population of girls faces particular challenges, there are few gender-specific programs that accommodate young mothers with their children, and frequently for permanency planning contained within the Adoption and Safe Families Act can force girls to give up rights to their children after their support them as parents.

Girls who are pregnant and parenting have especially high needs upon leaving the justice system, but little is known about their actual experiences and needs upon release. Including:

- Vulnerability to struggles with housing, education, employment, and health care.
- Difficulty assuming public assistance for which they and their children are eligible; and
- Reconnection with children. For girls who have had custody of their children, incarceration can present significant difficulties restoring reconnection and sustaining meaningful parenting support. Sanctions for drug-related offenses can create additional obstacles to reuniting girls with their children.[19]

Although many states have well-established, evidence-based or promising teen home visiting programs (e.g., Nurse-Family Partnership, Healthy Families), these programs may struggle to establish connections with justice involved girls who experience pregnancy possibly even recently from the justice system. These programs have not been evaluated and modified for this very high-risk population.

Despite their relatively low numbers in the juvenile justice population, the significant vulnerability of pregnant and parenting girls and the consequences for the next generation make further research essential. A full understanding of these girls' needs and the most efficient policies toward them is essential for establishing to exit programs and services that will help pregnant and parenting girls transition successfully back to their communities, avoid future justice involvement, and parent their children successfully.

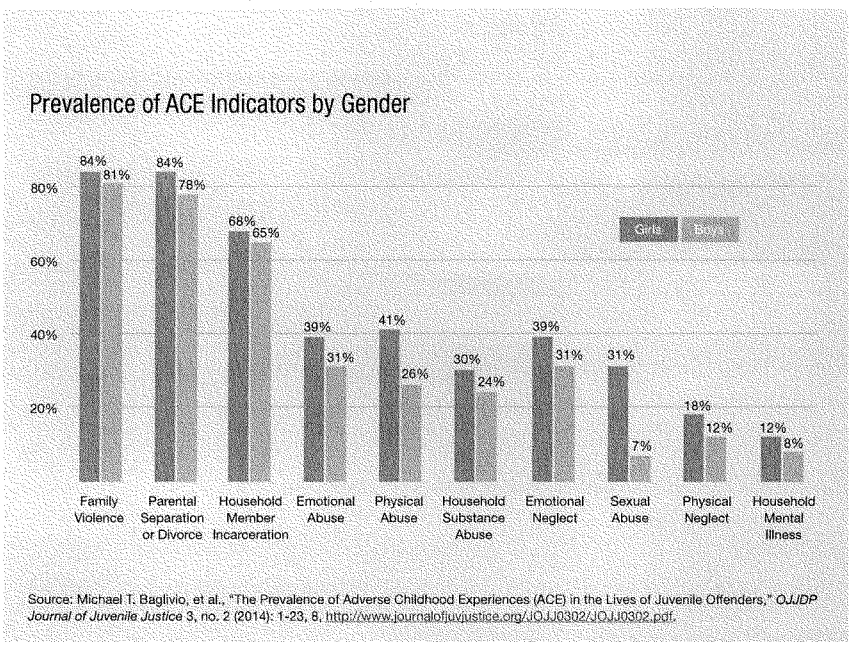
The Cumulative Effect

The overall portrait of childhood deprivation and violence among girls in the juvenile justice system is broadly captured by recent ACE (Adverse Childhood Experience) studies of justice-involved girls. The first ACE study in 1998 (examining adults) identified 10 forms of childhood adversity that correlate with chronic disease in adulthood.[136] The study scored the number of ACEs each participant experienced, grouping ACEs into three general categories—abuse, neglect, and household dysfunction—and providing a final score of one to 10. Researchers found that as ACE scores increased, so did future risk.[137]

Subsequent ACE research specifically examining girls in the juvenile justice system broadly describes a profile of childhood abuse among girls, which is comparably greater than that of boys, and is particularly more pronounced for sexual abuse, interpersonal victimization, and cumulative experiences of abuse and adversity.[138] In 2014, a Florida ACE study evaluated 64,300 youth involved in the Florida juvenile justice system, 14,000 of whom were girls.[139] The study shows the clear differences between the deprivation and violence experienced by girls compared to boys. The prevalence of ACE indicators was higher for girls than boys in all 10 categories.[140] Sexual abuse was reported 4.4 times more frequently for girls than for boys, which is consistent with other research.[141]

Forty-five percent of the girls scored 5 or more, versus 28 percent of the boys.[142] Another ACE study, conducted by National Crittenton Foundation in 2012, similarly found concentrations of adverse childhood experiences among girls in trouble with the law, with 62 percent scoring 4 or more, 44 percent scoring 5 or more, and 4 percent scoring 10, the highest score possible.[143] Among young mothers in the juvenile justice system, 74 percent scored 4 or more, 69 percent scored 5 or more, and 7 percent scored 10.[144]

Clearly, the social contexts of girls in the juvenile justice system are rife with adversity and trauma, putting many girls at great future risk. These contexts also profoundly influence girls' behavior, especially those behaviors most likely to lead to juvenile justice system involvement.



Source: Michael T. Baglivio, et al., "The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders," *OJJDP Journal of Juvenile Justice* 3, no. 2 (2014): 1-23, 8, http://www.journalofjuvjustice.org/JOJJ0302/JOJJ0302.pdf.

Social Context as a Driver of Girls' Behavior

Feminist sociologists and criminologists have argued that even when girls and boys experience similar unhealthy, dangerous, or damaging social contexts, they are affected differently and react differently as a result of different socialization and girls' increased focus on relationships.[145] The ways in which girls experience, cope with, and react to trauma from family conflict and abuse and community violence become direct, gendered pathways into the juvenile justice system.

Adolescent girls' vulnerability and responses to trauma are also influenced by their neurological development as teens. Recent research shows that the combination of heightened reward sensitivity and reduced self-control during adolescence makes teens particularly vulnerable to unhealthy social environments. For girls, there is evidence that this heightened vulnerability begins at an even younger age, due to the earlier onset of puberty in girls versus boys.[146]

The behaviors that lead girls to become involved in the juvenile justice system are variously characterized in the literature as problem behaviors, antisocial behaviors, help-seeking behaviors, or maladaptive coping mechanisms. Running away, for example, may be both a problem behavior (placing the girl at possible risk of victimization) and a help-seeking behavior (a way she protects herself from abuse in the home). The choice of how to characterize these behaviors—as rebellious or resilient—often dictates the policy response. For example, recent reports have documented the harmful long-term impact on Black girls when schools characterize their behaviors negatively—as disruptive and rebellious—rather than as those of young women who are outspoken about injustice and displaying qualities of leadership.[147]

While more research on girls' behavior is needed, particularly over the course of teenage girls' development, common behaviors that lead girls into the juvenile justice system include:

- Fighting with parents
- Running away
- Older/antisocial romantic partners
- Sex at a young age
- Poor relationships with peers
- Substance use
- Truancy/underperforming in school
- Poor relationships with teachers

Common threads run through these behaviors, and they are all related to the trauma girls experience in dangerous and unhealthy social contexts.

Unhealthy Relationships

Girls' behaviors are most significantly affected by their relationships with parents, peers, and intimate partners. Research consistently shows that relationships are particularly influential on girls' development and behavior, and girls whose social contexts offer few healthy relationships suffer pervasive negative effects. Girls experience more emotional strain from problem relationships because they have been socialized to focus on relationships;[148] this gendered sensitivity to relationships is particularly true in adolescence when relationship conflict can result in feelings of rejection and depression.[149] Insecurity in relationships can lead girls to associate with antisocial peers and romantic partners, increasing their vulnerability to delinquent behaviors.[150]

For girls in particular there is a connection between social contexts involving child maltreatment and poor peer and romantic relationships.[151]

For girls, fighting with parents and running away from home are also connected to experiences of in-home conflict and abuse, and have been tied to girls' heightened sensitivity to relationships and fear of anticipated rejection.[152] Family chaos in general has been consistently noted by researchers as a common driver of justice system involvement for girls.[153]

Loss of Agency and Control

Loss of control and power are well-researched consequences of traumatic social contexts and can cause long-term harm for girls and young women. Although the connection between agency—the loss of control over one's experiences and efforts to re-assert that control—and abuse are more fully researched and described in literature on women who have experienced intimate partner violence, the same dynamic may apply to adolescent girls. Many of the behaviors that lead girls into the juvenile justice system—running away, fighting with parents or peers, or having sex at a young age—can be seen as efforts to re-assert control over chaotic homes and interpersonal environments.

The literature on gender-responsive programming emphasizes the importance of agency and control for girls in its recommendation that programs and systems share power with girls, rather than dictating all activities, conditions, and consequences.[154] Similar empowerment techniques are part of trauma-informed treatment and family engagement strategies. Sharing power helps adolescent girls feel that they are being treated fairly, a particularly salient issue for girls caught up in the juvenile justice process.

Failed Social Supports

Community and social supports are critical protective factors for girls, but are absent for many, resulting in behaviors that drive girls into the juvenile justice system.

For example, school failure is common among boys and girls in the juvenile justice system. Low-performing schools and policies that rely heavily on school exclusion can lead to school disengagement, poor relationships with teachers and peers, and truancy.[155] School disengagement is also associated with trauma for girls.[156] Schools may actively punish behaviors stemming from trauma, directly pushing girls out rather than becoming places of support and safety. Girls' school-based behavior is connected to other aspects of their lives—girls who have poor peer relationships may fight and underachieve in school, leading to truancy and school-based offenses, and girls with inadequate support at home are more likely to underachieve in school.[157]

Girls who live in dangerous and unhealthy environments often have high physical and mental health care needs. Environments that do not provide adequate access to quality health care and mental health support set the stage for behaviors that drive girls into the juvenile justice system. While many more high-risk girls are now eligible for Medicaid as a result of the Affordable Care Act, system-involved girls are often from communities with limited access to health care, and many of their behaviors carry health risks. Sex at a young age can have adverse health consequences—rates of STDs among girls in the juvenile justice system are higher than for their non-system-involved peers[158]—and lead to health challenges associated with pregnancy and parenting.[159] Additionally, girls' experiences of trauma lead directly to many adverse health and mental health consequences. Substance use is a coping mechanism for girls who have experienced trauma and can become a direct path into the juvenile justice system. Residential instability associated with child welfare or juvenile justice system involvement can further challenge continuity of health care and exacerbate the attendant negative effects.

Unhealthy relationships, loss of agency and control, and failed social supports all play important, interconnected roles in driving girls' behavior—and they often lead to behavior that is undesirable or troublesome to their families, communities, and society. However, in the trajectory from traumatic social contexts, to girls' behavior, to juvenile justice involvement, how society and systems choose to respond is both pivotal and within our control. Crafting developmentally appropriate, supportive responses is key to changing the paths girls take, and to improving their future outcomes.

GIRLS ARE RUNNING AWAY: A SHORTHAND OF THE IMPACT OF SOCIAL CONTEXT ON BEHAVIOR

Running away is a status offense often associated with girls and is especially indicative of how dangerous and unhealthy social contexts can influence girls' behaviors and lead in turn to juvenile justice system involvement. According to the National Runaway Switchboard, in 2014, 70 percent of over 13,000 calls they received from runaways and their adult guardians were from girls.[illegible] Overall, these calls showed a 46 percent increase in calls from runaway youth.[illegible] Girls accounted for 53 percent of runaway cases in 2011, the only status offense category for which girls represent a greater proportion of cases than boys.[illegible]

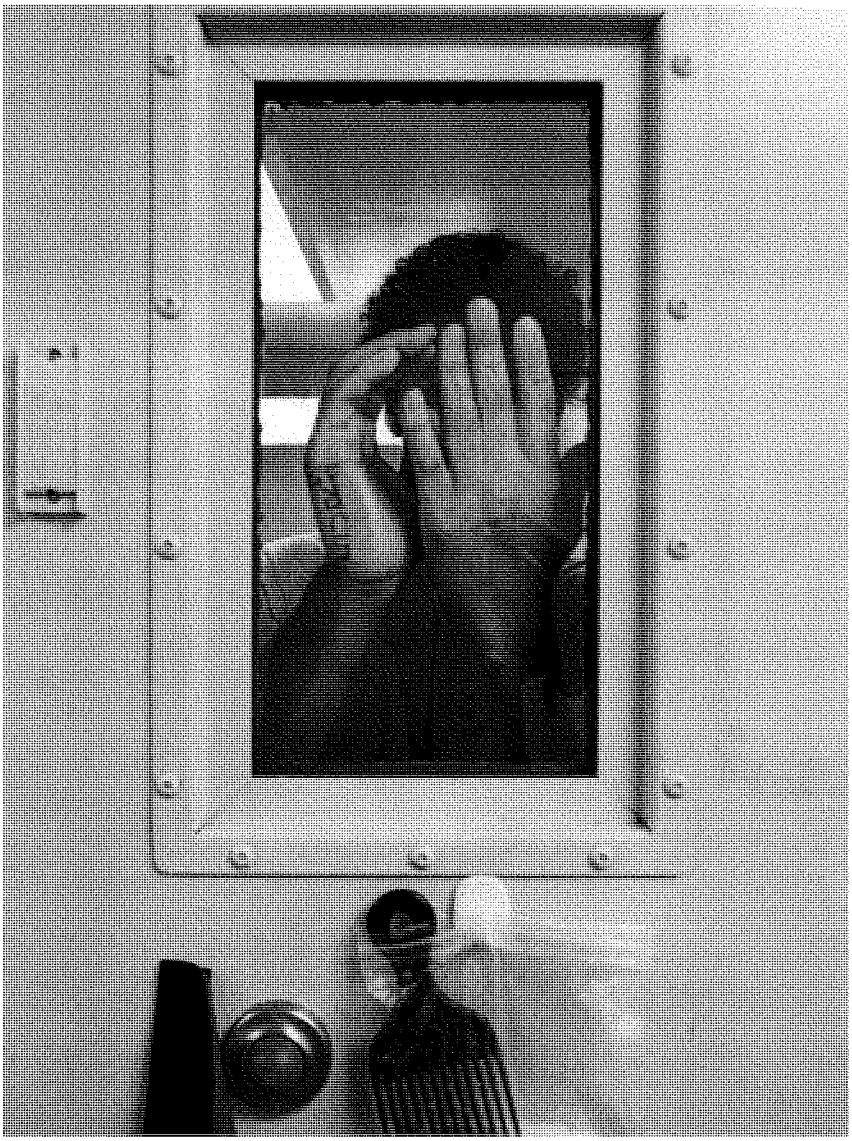
Girls are particularly vulnerable to family conflict and abuse, which are key risk factors for running away.[illegible] Running away can become a coping mechanism for girls, a way they attempt to escape difficult family or school situations. Girls who run away are at risk of many negative consequences, including victimization from acquaintance and stranger perpetrators, substance use and especially sexual victimization.[illegible] Because of these risks, girls who run away may actually are more likely to be arrested (or by police and detained by judges who are trying to prevent them from being victimized). However, in an effort to protect girls, legislators may be reluctant to reform judges' power to detain youth charged with status offenses by including a valid court order exception to the JJDPA requirement. Instead, some states prohibit use of the JJDPA exception for all status offenses, except running away (Ohio, Kansas, North Carolina).[illegible]

Instead, states could and should develop a more developmentally appropriate response to girls who run away. Recognizing that detention for running away or other status offenses and violates the intent of the JJDPA, these responses should instead be implementing solutions designed at the specific factors driving girls to run.

- **Assessment** is the first step toward creating a more developmentally appropriate response to girls who run away. Understanding the social contexts creating girls' risk and the specific characteristics of girls who run away is a great foundation. However, it is critical that the drivers and use of assessments should be reasonably applied when girls violate the law by failing to appear in court. Some states, such as Massachusetts, have explicitly prohibited keyholder protections against arrest and detention in the status offenses, including running away.[illegible]

- **Outreach and family engagement** rather than juvenile justice interventions are generally more effective responses to girls who run away. For girls who run away in order to escape family conflict, social services in their community can help girls stay safe and healthy, and they often remain in their communities. In these cases, community outreach through use of street workers, for example, and identification of ties to another family with whom the girl can stay while family relations are resolved can be an effective response.

- **Brief respite care** has also been found to be effective for diffuse family conflict and prevent running away. Research conducted in Ontario, San Francisco, and Nashville, Washington have been cited as models that offer a combination of peer-to-peer support, mediation of youth and families, a place for family reunification, and other aid. In addition, Homeboys Runaway Shelters in Houston, Texas, find these cases and connect girls and their families to services that help with crisis and conflict mediation, drug/alcohol services, job training, parent education, and referrals for additional services.[illegible]



B. The Equity Argument: Structural Inequality Sweeps Girls into Justice Systems that Fail to Support Them

Girls' social contexts, trauma, and the ways in which their responses are criminalized and drive them into the justice system present compelling reasons to focus on girls specifically. Another primary argument for focusing on girls lies in principles of equity—the same principles behind the JJDPA's mandate that states address racial and ethnic disparities in their juvenile justice systems. Equity for girls in the juvenile justice system means a system designed to fairly and meaningfully address the circumstances of individual girls as well as the collective concerns of girls as a group. It does not mean replicating the same system that exists for boys, particularly when that system is all too often overly punitive and ineffective. It does mean creating systems structured with an understanding of and respect for gender and individual differences.

A focus on equity for girls in the juvenile justice system began in the 1980s, when Meda Chesney-Lind described as "gender-bias" the structures and practices that allowed girls accused of status offenses to be "boot-strapped" into the delinquency system disproportionately to boys.[169] By detaining girls for violations of status offense conditions, she noted, systems were punishing girls for understandable responses to sexism and violence against girls and women—reframing these longstanding social problems as the fault of the victim. Her critique was structural and feminist and focused on law and system decision-making.

Beginning in the 1990s, this structural focus shifted when Congress, the federal Office of Juvenile Justice and Delinquency Prevention, and states re-framed "gender-bias" as a lack of appropriate "gender-specific" services. While there was and continues to be a lack of services tailored to girls, this narrower focus on program equity moved the conversation away from broad reforms needed in order to remedy structural inequality—such as those highlighted in this report and those that are central to the national conversation about racial and ethnic disparities—to girl-focused program design and resources. In 1993, through its Equal Access Law, Oregon was the first state to grant girls equal access to services, treatment, and facilities operated by state agencies. This law became a model for other states: as of early 2015, 18 other states had similar laws requiring programming to be gender-responsive and/or resources to be allocated equitably to girls in the juvenile justice system. However, the breadth of these laws varies: some are focused on discrete parts of the system, such as community programming, but don't cover all programming for girls at all stages of the system.

Gender parity laws, while a step in the right direction, have not been a panacea for girls in the justice system; girls still face deep gender bias in system programming, decision-making, and processing. However, the focus on gender equity in programming has led to a set of guiding principles for systems and programs seeking to design services in a way that is responsive to girls' development. These "gender-responsive" principles are also consistent with more recent literature on trauma-informed treatment. Although principles of gender-responsive and trauma-informed treatment and programming vary somewhat, they can be broadly classified as having three key elements:

1. Safety, both physical and psychological;

2. Focus on relationships; and

3. Shared power with girls and across systems.

Unfortunately, despite these principles serving as guidelines for programs and systems, research on evidence-based practices and programming for girls remains lacking, and girl-focused adaptation of large-scale juvenile justice system reforms is rarely even considered.

Most significantly for girls, the structural inequality embedded in the juvenile justice process remains remarkably durable. Moreover, the equity argument becomes more compelling as our understanding of the complexity of girls' layers of identity grows and research about the ways system decisions and processes affect different populations of girls improves (see sidebar, pp. 22-23). Advocates continue to push for broad, system-level reform for girls that is slow in the making, in some cases using legal challenges based on equal protection and other equity-based theories. Some cases have led to settlement agreements in favor of girls, and evolving judicial recognition of adolescent development as a legal factor suggests new arguments. However, to date many cases have been unsuccessful in court due to the high bar for proof and difficulties showing intent to discriminate (see sidebar, pp. 32-34).[170]

Given the deeper understanding today of the ways in which cumulative disadvantage, layers of identity, and historical trauma—all particularly pertinent to girls—can influence individuals' behaviors and decision-making, Chesney-Lind's gender bias critique is even more relevant. Moreover, given systems' lack of progress in achieving positive outcomes for girls, the equity argument for system-level reform remains persuasive.

USING LITIGATION TO ACHIEVE EQUITY FOR GIRLS

Attorneys have used legal arguments to pursue equitable treatment and improved conditions for girls in the juvenile justice system. Arguments have been based on the Americans with Disabilities Act (ADA), Title IX, equal protection clauses of both federal and state constitutions, the Due Process Clause of the Fifth and Fourteenth amendments, and the Eighth Amendment. Additionally, the U.S. Department of Justice (DOJ) has used the Civil Rights of Institutionalized Persons Act (CRIPA) and Section 14141 of the Violent Crime Control and Law Enforcement Act of 1994 as a basis to investigate facility conditions, negotiate change, and litigate if negotiations are unsuccessful. Some of these challenges have successfully led to improved treatment and conditions for girls, while others continue to face legal hurdles in court.

LITIGATION STRATEGIES:

ADA – Title II of the ADA and the Department of Justice's ADA regulations require that public schools provide students with disabilities with educational opportunities that are equal to those provided to other students, and educate students with disabilities in the most integrated setting appropriate to their needs, making reasonable modifications to programming rather than simply segregating them from students without disabilities.

Results for Girls:

- Girls with mental health disabilities have used these mandates to argue against school policies and practices that subject them to high rates of suspension, expulsion, and arrest, as well as placement in alternative schools where expectations and academic achievement are low and discipline—including physical restraints and arrest—is high. However, before initiating an ADA case, students with disabilities must exhaust administrative remedies under the IDEA, Individuals with Disabilities Education Act, which can be challenging and time consuming.[111]

- Arguments based on the ADA may also be effective against schools within juvenile justice systems that do not provide equal and effective education to youth with disabilities. Challenges have been pursued in Alabama, Massachusetts, Michigan, Mississippi, and Texas, and federal agency investigations have resulted in consent agreements in several cases.[112]

Title IX – Title IX prohibits discrimination on the basis of sex in any federally-funded educational program or activity.

Results for Girls:

- Girls have used Title IX as a basis for challenges to situations where they do not receive substantially the same programming as similarly situated boys. However, courts to date have defined "program or activity" broadly—as an entire juvenile justice system—allowing different "sub parts" of systems to serve girls and boys in significantly different ways.[113]

- LGBTQIA+[1] girls are clearly protected by Title IX. Guidance from the Department of Education's Office of Civil Rights (OCR) states that "Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation."[114]

Equal Protection – The federal equal protection clause prohibits states from denying any person equal protection of the laws.

Results for Girls:

- Girls have used equal protection arguments to challenge dispositions that are more restrictive than those of similarly situated boys, alleging that the state does not have more appropriate, less restrictive options for girls as it does for boys. Equal protection arguments have also been used when a girl does not receive substantially the same programming as a similarly situated boy would.

- To date, courts have not ruled in favor of girls. Some courts state that the government has a substantial interest in having different options for boys because of the greater number of boys in the juvenile justice system.[115] A high bar for proof is also a barrier for girls: courts require a demonstration of intent to discriminate against girls, not just discriminatory impact.[116] Furthermore, individual girls may be deemed out of the protected class if courts find the differing placement options for girls and boys had not actual bearing on the placement or services decision challenged in the specific case in hand.[117]

- While courts may not have ruled in girls' favor yet, equal protection arguments have nonetheless led to significant settlement agreements benefiting girls in some states.[118]

Due Process Clause – The Fifth and Fourteenth amendments to the U.S. Constitution prohibit depriving a person of life, liberty, or property without due process of law. Due process protections govern the standards for conditions of confinement for youth in juvenile facilities.[17]

Results for Girls:

- In 2003, a federal investigation of two girls' facilities in New York, Lansing Residential Center and Tryon Girls Residential Center, found due process violations related to use of excessive force, inappropriate restraints, and failure to provide adequate mental health care and treatment. The investigation resulted in a settlement agreement.[18]
- A 2003-04 federal investigation of three youth facilities in Arizona – including the Black Canyon School for girls – found major violations of girls' due process rights related to facility conditions. The investigation led to a consent decree with DOJ.[19]
- At the Baltimore City Detention Center, a DOJ investigation in 2000-2001 found violations of girls' due process rights related to mental health and medical care, sanitation, exercise, fire safety, and separation from adults. The State of Maryland consequently entered into a memorandum of agreement with DOJ to resolve the violations.[20]
- Due process arguments have been used successfully to prevent LGBQ/GNCT girls. A lawsuit court ruled in favor of a lesbian girl and a transgender girl who were subject to verbal and physical abuse based on their sexuality and gender identity, and long-term isolation to allegedly protect them from other youth. The court found that the facility had a culture of abuse and no policies or procedures in place to protect lesbian, gay, bisexual, or transgender youth.[21]

Eighth Amendment – The Eighth Amendment to the U.S. Constitution prohibits cruel and unusual punishment. Some courts have held that the Eighth Amendment applies to adjudicated youth in juvenile facilities. Other courts have held that although the Eighth Amendment does not apply, the Fourteenth Amendment provides protections similar to or even more extensive than those under the Eighth Amendment.

Results for Girls:

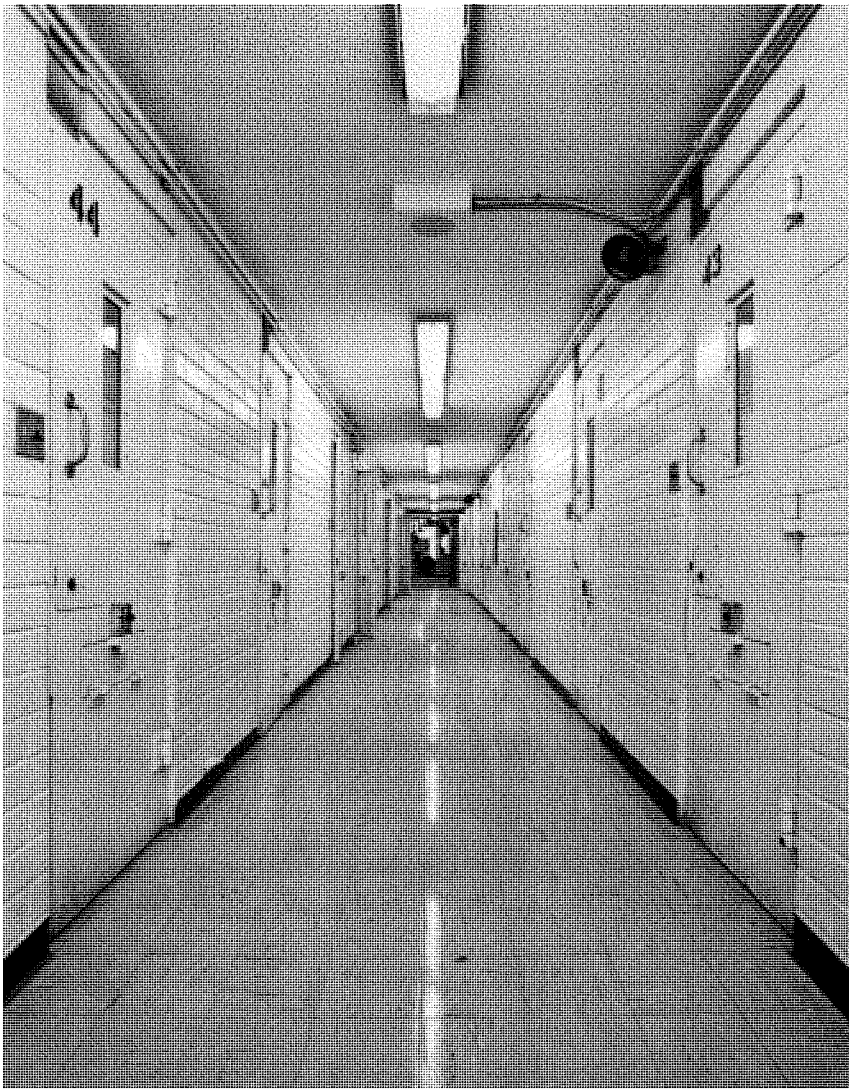
- In 2007, a DOJ investigation led to a consent decree with the Columbia Training School in Mississippi, a girls' facility where girls were shackled for twelve hours a day for eight days to one month, hog-tied with chains, physically and sexually assaulted, isolated in windowless rooms, and denied adequate mental health treatment. Ultimately, the legislature closed the facility after the filing of a class action lawsuit alleging violations of the rights of girls with mental illness under the Eighth and Fourteenth amendments.[22]

CRIPA AND SECTION 14141:

CRIPA and Section 14141 – These federal laws give the U.S. Attorney General authority to investigate cases involving possible violations of the federal rights of confined individuals.

Results for Girls:

- CRIPA and Section 14141 were used to investigate conditions at the Columbia Training School in Mississippi, the Black Canyon School in Arizona, the Lansing Residential Center for girls and Tryon Girls Residential Center in New York, and the Women's Detention Center at the Baltimore City Detention Center in Maryland. All investigations found violations of girls' constitutional and/or federal statutory rights and led to settlements and/or closure of the facilities.



V. Using a Developmental Approach to Meet Girls' Needs and Reduce Justice System Involvement: System Reform Recommendations

A. Why a Developmental Approach Works for Girls

As discussed above, the juvenile justice system is currently structured in such a way that girls are criminalized for environmentally-driven behaviors: traumatic social contexts influence girls to behave in ways that become paths into an overly-punitive and deficit-focused juvenile justice system. The process by which behaviors stemming from traumatic social contexts lead girls into the juvenile justice system has three main components:

1. Girls exhibit challenging behavior connected to their experiences of trauma—exposure to abuse, violence, and deprivation.

2. Blunt system responses result in criminalization and juvenile justice referrals for girls' behaviors—such as possession of drugs, domestic battery in their homes, or running away from placement—or girls become involved in other social services systems that fail them and then refer them to the juvenile justice system.

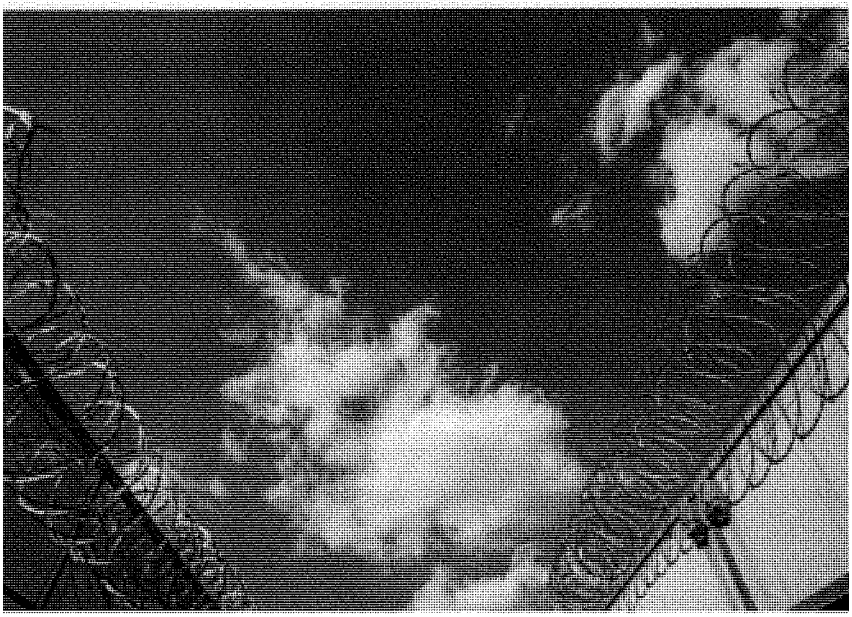
3. Once girls enter the justice system, misguided processes pull girls deeper into a system that is not built to help, heal, or respond to girls' developmental needs, but is focused on deficits and often actually worsens girls' situations.

However, an increasing number of jurisdictions are beginning to recognize the errors in this process and are making changes to adopt a developmental approach to juvenile justice system reforms. A developmental approach is the natural outgrowth of an increasing understanding that both developmentally and neurologically, adolescence is a time of change in ways that directly impact youth behavior associated with crime. The U.S. Supreme Court has been a leader in acknowledging the appropriateness of a developmental approach; four cases over the past ten years have prohibited certain harsh punishments and processing of youth under 18 in recognition of their more limited culpability given their age and stage of development, and their capacity for change.[185] Because adolescence is a profound time of change and growth, an emphasis on supporting healthy social contexts in order to promote healthy development makes complete sense. Additionally, because girls' paths into the juvenile justice system are so closely linked to their social contexts, the developmental approach's emphasis on supporting healthy social contexts fits girls especially well.

In 2013, the National Research Council (NRC) described a developmental approach to juvenile justice reform that provides a clear path for systems.[186] The NRC identified seven hallmarks of a developmental approach to juvenile justice:

- Accountability without criminalization;
- Alternatives to justice system involvement;
- Individualized response based on assessment of needs and risks;
- Confinement only when necessary for public safety;
- A genuine commitment to fairness;
- Sensitivity to disparate treatment; and
- Family engagement.[187]

In the last decade there have been a number of widely replicated system reform efforts that feature many of these developmental hallmarks—the Crossover Youth Practice Model, the Juvenile Detention Alternatives Initiative, Models for Change, wraparound services with behavioral health systems, and probation case management using positive youth development are a few. These initiatives, and others like them, help prevent youth from entering the juvenile justice system unnecessarily and improve their family and community environments for the future. However, in order to be effective and sustainable for girls on a systemic level, these broad reforms must be approached with an intentional gender focus. Girl-focused reforms must be woven into current developmentally-focused system-level juvenile justice reform, rather than treated as discrete, isolated efforts; girls reforms that are isolated from larger juvenile justice reforms have tended to be undertunded and short-lived.[188]



B. System Reform Recommendations, Examples, and Opportunities

Only through an intentional gender focus, an informed understanding of the problems facing girls in each jurisdiction, data-driven analysis of the impact of each reform on girls, and intentional and ongoing gender-responsive modifications will girls move off the sidelines of reform and benefit from real change. Toward this end, all developmental reforms at each point in the system must involve the following general steps:

1. Assess the Impact of Decisions on Girls: Gather and analyze data to understand both how girls are affected by system decisions and the dynamics of the behavior that is the source of system involvement; determine whether the girl should be in the juvenile justice system at all or whether there are "off-ramps" to divert her into community-based programs, child welfare, health systems, or other solutions.

2. Map the Process: Examine how each decision point affects girls and map their movement through the system; scrutinize statutes and policies behind system decisions to determine their intent and fit for girls.

3. Imagine Change: Conceptualize an equitable system tailored to the needs of girls—with community-based, gender- and culturally-responsive, and trauma-informed programming that promotes healthy relationships, gives girls agency over their lives, and shores up their social supports—rather than defaulting to traditional systems.

Within this general frame, the following specific recommendations include developmentally-focused, system-level reforms with the most potential to produce better outcomes for girls. Some recommended reforms have already been implemented with success for girls in certain jurisdictions, and examples of these successes are included (note that the lists of examples for reforms are not comprehensive). Other reform recommendations have not been applied systemically to benefit girls, but present particularly promising opportunities to target reforms at girls, given their particular social contexts and the behaviors that drive them into the justice system.

Recommendation 1

Stop Criminalizing Behaviors Exposed in Damaging Environments that Are Out of Girls' Control

Decriminalize Offenses Common to Girls Living in Traumatic Social Contexts

To have greatest impact on girls, states should decriminalize behaviors that are particularly common to girls and most linked to trauma—reducing the number of offenses that can lead to arrest and detention of girls, and encouraging police to handle girl misbehavior through alternative means.

Examples and Opportunities:

- **Decriminalize "prostitution" for minors.** Eleven states have decriminalized "prostitution" for minors, recognizing that minors charged with the offense have been exploited and victimized, that it is an indication of social service needs, and that youth should not be held responsible due to their age and development. Decriminalization of "prostitution" also resolves paradoxes in laws that allow girls below the age of consent to be charged with intentional crimes related to "prostitution."

- **Decriminalize minor school-based offenses commonly charged to girls, such as verbally disruptive behavior.** In 2011, Connecticut's Judicial Branch adopted a policy to screen all arrests of youth coming to court for minor school-based offenses, rejecting those involving typical adolescent behavior, and making it clear that schools should handle non-criminal behavior.[189] A bill to decriminalize verbally disruptive behavior in schools is currently pending in Massachusetts. The bill would require schools to issue two written warnings during the current school year before a student's misconduct could meet the legal threshold of being "willful" and to provide behavioral interventions for disruptive students.[190] Furthermore, Delaware recently gave schools discretion to handle minor offenses; prior to the change, schools were required to report all offenses, no matter how minor, to law enforcement.[191]

- **Reduce system involvement for misdemeanors.** As part of a sweeping reform bill passed in Georgia in 2013, the state now prohibits detention of youth who commit misdemeanors unless they have been adjudicated for three other delinquency offenses, one of which was a felony.[192] In Maryland, out-of-home placement is prohibited for youth adjudicated for certain minor offenses, including prostitution, theft, possession of marijuana, and disturbing the peace (the law includes an exception for youth who have been previously adjudicated for three or more offenses).[193] South Dakota recently enacted broad juvenile justice legislation creating a presumption for a probation disposition in all non-person juvenile cases.[194]

- **Prohibit juvenile justice involvement for curfew and other ordinance violations.** Massachusetts' Supreme Judicial Court struck down a curfew ordinance that carried the possibility of commitment to the juvenile justice system, finding it violated the youth's freedom of movement and essentially criminalized status offenses, contrary to federal and Massachusetts law.[195] Nevada youth who violate curfews or loitering ordinances may no longer be adjudicated as delinquent, but must instead be treated as children in need of supervision.[196]

- **Offer police alternatives to arrest.** Some states have created alternative "reception centers" to help police handle minor offenses, such as two girls fighting, without taking youth to the police department or detaining them. Multnomah County, Oregon established a reception center in 1998, which serves youth aged 11 to 17 who have been arrested for a status offense, non-person misdemeanor, or city ordinance, screening them for health, education, or family needs and providing family counseling if warranted. In 2007, Pima County, Arizona opened the Domestic Violence Alternative Center (DVAC), a reception center focused on diverting cases of home-based assault and battery upon first police contact by offering 24/7 crisis intervention and 23-hour respite care, resulting in fewer children being charged with and detained for domestic violence.[197]

Train Law Enforcement to Respond Supportively to Girls in Need and Avoid Arrest

Changing the way law enforcement police girl behavior and training officers on the specific needs of girls can instill support for girls at the front door of the system and ultimately reduce arrest and detention of girls.

Examples and Opportunities:

- **Shift policing practices to treat trafficked girls as victims, not criminals.** Dallas' High Risk Victims and Trafficking Team takes a victim-centered approach to girls at high risk, using trauma-informed interviewing, employing a targeted investigative model because of the rarity of self-reporting, and making an effort to place girls in a staff-secure shelter rather than detention. The unit explicitly recognizes running away as a behavior that can often lead to girls being trafficked.[198]

- **Increase girl-specific training for police officers.** Effective training on girls would address their social contexts, how certain behaviors are natural reactions to those contexts, and why the juvenile justice response is rarely best.[199] Texas now requires all correctional officers, juvenile probation officers, supervision officers, and parole officers to receive specialized training in trauma-informed care of youth.[200] However, while many police departments and patrol officers recognize the need for girl-specific training, police departments in general have been slow to integrate training on girls into their overall curricula, partly due to a lack of girl-specific curricula.

Use a Child Welfare—not Juvenile Justice—Approach

Although for many justice system-involved girls the child welfare system feels indistinguishable from the juvenile justice system, child welfare approaches and resources are often a better fit for girls whose "delinquency" is connected to trauma, and offer some protection against the many collateral consequences of delinquency findings and system involvement.

Examples and Opportunities:

- **Retain "crossover" girls in the child welfare system whenever possible.** The Crossover Youth Practice Model—first implemented in 2013 in 13 jurisdictions and now in almost 90—provides one template for retaining youth in the child welfare system and intentionally reducing juvenile justice involvement for youth with histories in the child welfare system and whose offenses are minor or related to their child welfare histories. The model also aims to reduce the number of youth entering and reentering care and the length of out-of-home placement.[201] However, to maximize impact for girls, practice models for crossover and dually-involved youth should target reforms to child welfare issues predominant among girls, including behavioral health, running away, sexual exploitation, and intra-family chaos.

- **Use front-end screening to promptly identify crossover girls.** In San Diego, California, juvenile probation officers have access to the child welfare case management system in order to facilitate early identification of crossover youth and immediate communication between agencies. Law enforcement officers responding to complaints are also trained to identify crossover youth.[202]

- **Collaborate with systems that can address girls' needs.** The Child Welfare and Systems Integration Initiative is one example of a model that addresses structural barriers to success by focusing on improved integration and coordination of services for youth.[203] Behavioral health systems are critical collaborators in the Crossover Youth Practice Model, helping to ensure that wraparound services, a promising practice for girls, can be provided to crossover youth and behavioral health issues can be properly addressed.[204] In Lehigh County, Pennsylvania, a longstanding collaboration between probation and child welfare helps ensure thorough planning and implementation, cross-systems training, and continuous data collection and evaluation.[205]

- **Make use of Title IV-E funding to expand resources for justice-involved girls.** Federal funding to states through Title IV-E of the Social Security Act provides a mechanism to promote family engagement, permanency and other strategies which may originate in child welfare, but which apply to, and show promise for, justice-involved girls. States are eligible for Title IV-E reimbursement for non-secure out-of-home care for justice-involved youth, which is an additional incentive to utilize effective foster care as a juvenile justice disposition. The 2014 Preventing Sex Trafficking and Strengthening Families Act (see sidebar, pp. 43-44) gives child welfare systems the lead in responses to trafficking, making child welfare funding available for services for trafficked girls.

- **Use Multi-Disciplinary Teams (MDTs) to plan holistically for justice-involved girls.** MDTs, in which human and behavioral health services and judicial representatives relevant to the issue presented by the girl meet to develop a cross-system case plan, are an important tool to plan comprehensively for justice-involved youth and reduce justice system involvement by accessing child welfare and behavioral health resources for girls. However, MDTs have the potential to net-widen, pushing girls into the system to receive services when the underlying delinquency case has little merit, and can put girls' privacy at risk or put girls in further legal jeopardy by sharing sensitive information.

- **Ensure aftercare/reentry planning to encourage successful transitions for girls.** Aftercare planning can help provide girls with stable housing, education, vocational training, employment assistance, and behavioral/mental health services. Arkansas created a juvenile ombudsman office by statute to advocate for youth and facilitate transitions, and additional laws in the state provide guidance on reentry and aftercare planning for crossover youth by clarifying agency responsibilities and procedures.[206]

Stop Punishing Girls for Living in Chaotic and Violent Homes by Reforming Mandatory and Pro-Arrest Domestic Violence Laws

An unintended consequence of mandatory and pro-arrest laws designed for adult intimate partner violence is the arrest of girls caught up in intra-family violence. Given the differing dynamics of domestic violence cases involving adults versus youth, and males versus females, a developmental and not a criminal justice response is most appropriate.

Examples and Opportunities:

- **Assess the juvenile justice impact of domestic violence laws and responses on girls.** There are significant differences between adults and adolescents involved in domestic violence (see sidebar, p. 20), and current policies should be assessed to determine how they affect girls differently than men and women. The impact on various groups of girls, such as LBQ/GNCT girls, should be given special attention.

- **Amend mandatory and pro-arrest laws to include exceptions for youth involved in intra-family violence.** A handful of state domestic violence statutes contain minimum age requirements for arrest or require law enforcement to offer families services before arrest or detention (e.g., Arizona, Idaho, Nevada, South Dakota, Washington, and Wisconsin). In Alabama, an attorney general's opinion narrowed the scope of the mandatory arrest law, allowing discretion in the case of minors and explicitly stating that the law was not intended for minors in intra-family disputes.[207]

- **Divert cases of adolescent girls involved in domestic violence.** Existing examples of diversion include crisis intervention, family engagement, temporary respite care, and mental health screening when needed.[208] These responses must be evaluated—with data analysis by gender, cross-referenced with race and ethnicity—to allow systems to differentiate diversion models to fit the particular needs of girls and patterns of girl offending.

Treat Sexually Exploited Girls as Victims by Decriminalizing "Prostitution" for Minors and Diverting Sexually Exploited Girls from the Juvenile Justice System

While the total number of girls who are victims of domestic sexual exploitation and sex trafficking is unknown, it is clear that the vast majority—76 percent—of arrests of youth for prostitution involve girls.[209] The federal government offers some protections for youth who are trafficked (see sidebar, pp. 43-44); these protections are a start but states must take additional measures to extend protections for girls in a meaningful and intentional way.

Examples and Opportunities:

- **Treat girls involved with "prostitution" as victims, not criminals.** Some states have enacted measures to protect youth involved in "prostitution": between 2010 and 2014, 20 states passed "safe harbor" laws designed to give girls a safe exit from trafficking. However, these laws do not provide blanket protections for girls due to age limits or failure to decriminalize "prostitution" (see sidebar, pp. 43-44).

- **Use screening tools to determine whether girls are victims of sex trafficking.** Recently a number of screening tools have been developed for use by child welfare professionals, police, or detention personnel. If the tool indicates a girl is a victim, she can be diverted out of the juvenile justice system and offered services to fit her needs. Examples of the tools include the Trafficking Victim Identification Tool, Portland State University CSEC Screening Interview, and the CANS-SCE.

- **Ensure safe harbor laws do not net-widen.** Jurisdictions must first define minor sex trafficking or commercial sexual exploitation for the purpose of data collection and in order to develop a targeted response. The problem definition should be clear and not net-widen—labeling "survival sex"[§] as trafficking, for example, can lead to over-intervention and dilute the response so it is ineffective for those girls with the greatest need.

- **Shift primary responsibility for responding to trafficking to the child welfare system and community supports, building on new federal law.**[210] Jurisdictions have approached the issue of trafficking through multidisciplinary collaborations with agreements not to arrest exploited girls, but instead to concentrate services through the child welfare system (e.g., Suffolk County, Massachusetts' SEEN Coalition). While the research is too new to identify evidence-based practices, this multi-disciplinary, survivor-led, community-based approach has been most promising (e.g., My Life My Choice).[211]

- **Adjust local responses to trafficking as needed.** Determining what is needed and effective in every jurisdiction is a process and states must evaluate their efforts and make changes as needed. Minnesota passed a narrower safe harbor law in 2011, but a legislatively-mandated working group found the legislation didn't go far enough to protect trafficked youth.[212] Minnesota expanded the legislation in 2013 and 2014, raising the age for decriminalization of prostitution to 17, making services available for all youth under age 18, and allocating funding for housing and trauma-informed services.[213] Additionally, in 2010, Washington State strengthened its safe harbor law: prior to the change, diversion of minors charged with prostitution was discretionary; now, prosecutors are required to divert cases involving minors for the first offense (diversion remains discretionary for subsequent offenses).[214]

§ There is a range of terminology currently used to describe minors trading sex; often the terminology used reflects a decision about how the author is conceptualizing the issue and response. Some of the phrases used are: survival sex, commercial sexual exploitation of minors (CSEC), domestic minor sex trafficking, and sex work.

SEVERAL MAJOR STATE RESPONSES TO JUVENILE SEX TRAFFICKING ARE EMERGING

The federal Trafficking Victims Protection Act of 2000 (TVPA) and subsequent reauthorizations make human trafficking a federal crime and provide protections for girls under 18. The recent 2014 Preventing Sex Trafficking and Strengthening Families Act details ways state child welfare systems should document the incidence of sex trafficking of minors and take the lead in developing a collaborative response. State child welfare agencies are required to develop policies and procedures to identify and document youth who are victims or at risk of becoming victims of trafficking, and to develop appropriate responses. These mandates are in line with a developmental approach to girls who are trafficked, examining the contexts leading girls to become trafficked and creating child welfare-focused responses that address girls' needs rather than relying on juvenile justice interventions that criminalize these girls.

States are beginning to heed this approach. For example, California passed legislation in 2014 that amended state law to clarify that "commercially sexually exploited children" can be served by child welfare agencies, giving courts an option other than the juvenile justice system.[17] California's Department of Social Services recently issued guidance for taking an emergency approach to commercially sexually exploited children and instructions for accessing funding for that approach.[18] Other state legislatures are also beginning to suggest taking a child welfare approach to trafficking of minors, but not requiring it. While these efforts fall short of the "safe harbor" approach discussed below, they do begin to shape a policy favoring a child welfare response.

Likewise, through safe harbor laws, states can and are shifting their approaches to youth "prostitution" and trafficking away from criminalization and toward interventions that divert girls from justice system involvement. However, current laws vary in their detail and breadth. Of the 20 states with safe harbor laws, only 11 have effectively decriminalized prostitution-related offenses for minors, and in many of those cases the decriminalization is narrowly applied—Texas' law applies only to youth under age 18, and in Connecticut and Michigan the law applies only to youth under age 16. The remaining nine states allow youth to be charged with prostitution, but include an option or requirement to divert youth to the child welfare or status offense systems.

In the majority of states, there is still neither decriminalization nor diversion of these cases, and girls who are old enough to be charged in juvenile court generally can be charged with prostitution. States considering safe harbor laws—and states that have already enacted them—must ensure that responses are based on accurate and gender-sensitive assessments of the root cause of the issue and how to best to address it. An analysis based on early, limited data suggests that safe harbor laws may not be achieving results as expected, given the unique difficulties of intervening with trafficked girls and the policing practice changes necessary to fully comply with the law.[19]

Survey of State Safe Harbor Laws

Year Effective	State	Law/Case	Decriminalized/ Immunity/ Defense	Diversion	Maximum Age
2008, 2015	Michigan	Mich. Comp. Laws Ann. § 750.448 (2003) Decriminalized; Mich. H.B. 5012, H.B. 5024, 2014 Diversion	X	X	15
2010	Connecticut	S.B. 153, 2010	X		15
2010	Illinois	H.B. 5462, 2010	X	X	17
2010	New York	S. 01750, 2009		X	15
2010	Texas	In re B.W., 313 S.W.3d 818, 821 (Tex. 2010) (de-criminalization); S.B. 82, 2013 (diversion)	X	X	15
2010	Washington	S.B. 6476, 2010		X	17
2011	Massachusetts	H. 3482, H. 3809, 2011		X	17
2011	Tennessee	S.B. 0004, 2011	X		17
2011	Vermont	S.B. 272, 2010		X	17
2012	Louisiana	H.B. 46, 2012	X	X	17
2012	Ohio	H.B. 290, 2012		X	17
2013	Arkansas	S.B. 460, S.B. 242, H.B. 1605, 2013		X	15
2013	Florida	H.B. 99, 2012		X	17
2013	Kansas	Senate Substitute for H.B. 2094, 2013	X	X	17
2013	Kentucky	H.B. 3, 2013	X		17
2013	Nebraska	L.B. 255, 2013		X	17
2013	New Jersey	A. 3365, 2013	X		17
2013	North Carolina	S.B. 683, 2013	X		17
2014	Minnesota	S.F. 1, 2011	X	X	17
2014	Utah	H.B. 374, Substitute		X	17

Prohibit Detention of Girls for Status Offenses and Eliminate the Valid Court Order (VCO) Exception

The JJDPA clearly prohibits detention of youth for status offenses, but the VCO exception has essentially swallowed that rule. Detaining girls whose behavior doesn't even rise to the level of being classified as delinquent is starkly out of line with a developmental approach, a denial of the social contexts that drive girls to commit status offenses, and contrary to the increasing understanding that such girls frequently experience great harm in justice-based interventions, especially detention.

Examples and Opportunities:

- **Eliminate the VCO exception through reauthorization of the JJDPA.** Advocates have been pushing to amend the JJDPA since it came up for reauthorization in 2007, and are strongly urging removal of the VCO exception. On April 30, 2015 the bi-partisan Juvenile Justice and Delinquency Prevention Reauthorization Act of 2015 was introduced in the Senate, proposing a phase-out of the VCO exception over three years.
- **Prohibit use of the VCO exception at the state level.** In 2014, 23 states did not make use of the VCO exception.[218] Moreover, according to a recent survey conducted by the Coalition for Juvenile Justice, 17 states actively prohibit use of the VCO exception to place youth who commit status offenses in secure detention.[219]
- **Handle status offenses informally.** Some states provide incentives in their status offense laws for informal resolution of cases, requiring schools to intervene and assess truant youth for learning disabilities before filing in court, for example, or prohibiting the arrest, handcuffing, police transport, or secure confinement of runaway youth (e.g., Massachusetts).[220]
- **Serve girls who commit status offenses through a family-focused approach.** States using this approach divert youth from the justice system, link them and their families to community-based services, and prohibit the use of detention as a sanction (e.g., Connecticut, Florida, Iowa, Massachusetts, New Hampshire, New Mexico, and Vermont).[221] However, some of these states still allow youth to be placed out of the home in a non-secure facility, group home, or foster home.

Revise School Policies to Support Girls in Need, Limiting School-Based Arrests and Court Referrals

To stem the flow of girls from schools into the justice system, schools must change the way they approach girl misbehavior in school, limiting the number of issues that are treated as crimes or that lead to court referral, and examining the developmental and social needs of girls.

Examples and Opportunities:

- **Eliminate zero-tolerance policies.** Many states now recognize that zero-tolerance policies lead to poor outcomes for youth and do not improve school safety.[222] Examples of changes to policy include allowing more discretion for school officials handling discipline, graduated responses to infractions and consideration of mitigating factors, requiring schools to handle misbehavior through educational interventions prior to the filing of a delinquency petition, eliminating expulsions for willful defiance, eliminating out-of-school suspensions for truancy, and an increased focus on use of positive behavioral supports instead of punishment.[223]

- **Push back on school referrals through the court system.** Courts can and should take a role in reducing the flow of youth from schools into the juvenile justice system by rejecting referrals from schools that involve minor offenses.[224]

- **Change policies with regard to truancy, a common offense for girls.** Maryland now prohibits suspension or expulsion solely for attendance-related issues[225] and Virginia prohibits suspension for truancy.[226] Colorado allows court involvement in truancy only as a last resort, after schools have exhausted options involving best practices and research-based strategies for intervention.[227] Similarly, Washington State, Connecticut, and Massachusetts have added additional protective procedures for truancy cases—such as required written notification of parents or guardians, examination of special education issues, and use of community- or school-based diversion or truancy prevention programs—to reduce the number of youth who are referred to court.[228]

- **Identify and address policies and practices that fall most heavily on Black girls.** Better collection and reporting of data by race and gender is needed to improve jurisdictions' understanding of the effects of school discipline policies and practices on Black girls, and the contexts driving Black girls' behavior.[229] Because Black girls are targeted for certain behaviors—such as speaking out of turn in school—in a way that white girls and boys are not, schools should increase training of school personnel to better understand their biases and decision-making and more appropriately and positively respond to these behaviors with educational and enrichment programming, counseling, and protective measures.

- **Differentiate responses for girls.** Differentiated responses address the particular issues that lead girls to fail in school, which often leads to justice-involvement. The Middle School Success Project, for example, targeted girls who were in foster care due to child maltreatment as they transitioned into middle school in an effort to prevent future justice-involvement among this high-risk group of girls. The research found that girls who were in foster care performed better academically through middle school and had less aggressive behavior when they had supportive caregivers (particularly mothers) and when they had greater self-regulation; hence those elements were included in the intervention to positive effect.[230]

Recommendation 2

Engage Girls' Families Throughout the Juvenile Justice Process

Girls' family relationships are central to their healthy development and engaging families in solutions throughout the juvenile justice process is critical. The fact that many girls' families are a source of trauma and many girl offenses are home-based actually underscores the centrality of families to girls' development and success. Ultimately, girls in the justice system return home and their long-term success will hinge in large part on the quality of their family relationships. Viewed through this lens, family engagement for girls is both critical prevention and intervention.

- **Use family engagement strategies to resolve family issues and prevent status and delinquency offenses.** Because the root cause of status offending by girls is often family conflict, successful interventions engage families immediately, focusing on strengths, empowerment, and non-judicial interventions.[231] Family group decision-making, family group conferencing, and family team meetings allow youth and families to take the lead in problem-solving and decision-making. The Girl Family Team Meeting tailors this approach for girls, engaging facilitators with particular expertise in girls' development, helping girls articulate their needs during meetings, and ensuring that families and professionals do not focus only on girls' problem behaviors.[232] Families and facilitators listen to girls in order to learn why they behave as they do, such as running away to escape family chaos, then help girls find alternative ways of meeting their needs.[233]

- **Engage families in diversion programming.** Effective family engagement can be a key component of diversion. Family team meetings (FTMs) engage youth and families in problem solving and case planning and fit girls well—incorporating gender- and developmentally-responsive elements by building girls' relationships and their sense of agency. FTMs have been used in child welfare and juvenile justice collaborations in many jurisdictions to divert youth out of the formal juvenile justice process.[234] For example, the Crossover Youth Practice Model diverts cases to a FTM model that has been successful for girls—addressing the family context that results in girls' delinquency by both strengthening girls' family relationships and their control over those relationships.

- **Support young mothers in the juvenile justice system by engaging their families.** Motherhood can motivate justice-involved young women to make positive life changes and in many practical ways, those changes are made easier with family support. Housing, childcare, financial, and emotional support essential to young motherhood can all be made easier when families are engaged. At the most basic level, timeframes for permanency under the Adoption and Safe Families Act (ASFA) may result in termination of parental rights for young mothers in the juvenile justice system whose families are not engaged to care for their children while they are incarcerated (see sidebar, p. 25).

Recommendation 3

Use Pre-Petition Diversion to Divert Girls Away from the Formal Justice System and Link Them to Community Services

Diversion—long identified as a promising juvenile justice system practice—refers to opportunities to move youth out of the formal juvenile justice process at the front-end: instead of getting mired in the full court process, youth are referred to short-term programs or community services that are targeted to their offense and behavior. Diversion focused on girls' social contexts and behaviors, like all effective diversion, should be pre-petition, short-term, and offer a realistic opportunity to address the immediate issue raised by the offense—preventing a juvenile record and deeper juvenile justice involvement, and supporting girls' ongoing development. In most jurisdictions there are opportunities for pre-petition informal and formal diversion of girls that are underutilized.

Examples and Opportunities:

- **Target diversion at offense categories common to girls.** Targeted diversion for girls should be based on data from system assessment and mapping and focus on behaviors that drive girls into the justice system. For example, some jurisdictions have focused specifically on diverting youth charged with low-level or misdemeanor domestic violence, common charges for girls. Pima County, Arizona, DuPage County, Illinois, and King County, Washington have all implemented systems for diverting such youth, giving priority to keeping youth out of detention, helping youth in crisis, and linking youth and their families to services in a timely way.[235]

- **Expand diversion opportunities for girls through legislation.** Some states use broad juvenile justice statutory reforms to intentionally expand diversion opportunities. Hawaii and Kentucky, for example, both passed sweeping reform bills in 2014 that include provisions to divert youth who commit low-level and status offenses and allow them to avoid formal court processing.[236]

- **Divert girls pre-petition and offer multiple opportunities for diversion.** Statutes or procedural rules often include two to four opportunities for pre-adjudication diversion, including opportunities for diversion pre-petition. Typical statutes give probation or court clerks authority over "informal" diversion at referral before the formal court process begins, or after the initial hearing, but pre-adjudication. These opportunities are often underutilized.

- **Use the civil system to divert girls from formal juvenile justice processing.** Florida's Miami-Dade County has served 6,000 girls through its model civil citation diversion program since it began in 2007. Instead of being arrested, girls who commit first-time, non-violent misdemeanors are referred to the civil citation program, where they are assessed and provided with a range of interventions. Low-need girls may simply be required to complete community service, while girls with higher needs are referred to community-based programs to address deeper social issues driving their behavior.[237] Because of the program's success in Miami-Dade County, in 2011 the Florida Legislature voted to establish similar programs across the state, although Miami-Dade's program remains the most successful at diverting youth from arrest.[238]

- **Ensure that diversion efforts do not net-widen.** As with all juvenile justice programs, diversion programs must be designed and monitored to ensure that they do not net-widen, pulling in girls who would normally just be left alone, thereby actually increasing the number of girls moving into the system. To prevent net-widening from its civil citation program, Miami-Dade County simultaneously runs a prevention program for youth at risk. Officers are trained to use prevention services when appropriate, and girls are not required to enter the system in order to receive needed services.[239]

Recommendation 4

Shift Secondary Responsibility for Offenses and Technical Violations that Pose No Public Safety Threat, and Are Experienced Mostly by Girls

Because the practices that drive girls into secure detention are some of the most difficult to change—detentions for warrants and technical violations of probation, for example—a consistent and targeted focus on girls is needed to achieve ongoing reductions in their secure detention. These practices impact girls disproportionately because they are triggered by typical behaviors among girls who have experienced trauma, such as running away and rules violations. Additionally, decision-makers widely perceive girls as vulnerable or as having high needs, which influences their decisions to detain in the absence of any perceived alternative.[240]

Examples and Opportunities:

- **Assess detention utilization for girls.** Data describing girls' entry and movement through detention systems is critical to reforming detention use for girls. Jurisdictions must collect and analyze system data by gender, cross-referenced with race and ethnicity, to identify the triggers (school, family, failed program, child welfare system) or system processes or policies (technical violations of probation, warrants, awaiting post-disposition placement) that result in girls detentions. Data-driven assessments of girls detention utilization should include maps that track the movement of girls through the juvenile justice process to determine, for example, what policies result in detention, and which girls return to detention. Based on this process of assessment and mapping, jurisdictions can target developmental reforms appropriately.

- **Triage girls' cases and avoid detention through short-term respite care or reception centers.** Short-term shelter beds or reception centers can be used to triage girls' cases rather than resorting to detention in a family or interpersonal crisis. In such situations, youth with low-level offenses are brought by law enforcement directly to reception centers for screening and then referred to services that engage them and their families in solutions. When respite is needed, short-term shelters can provide a brief break for families while they receive assistance to resolve the immediate crisis that gave rise to law enforcement involvement (e.g., Multnomah County, Oregon; Pima County, Arizona).

- **Coordinate and collaborate across systems.** Girls, whose behaviors create concerns for their safety, may be detained by judges who feel they have no alternative. However, often alternatives do exist in the community or in other family-serving systems such as child welfare, mental health, or public health. In these complex multi-need cases, interagency planning meetings can expand resources for girls and reduce reliance on detention. Moreover, community-based mental health systems or juvenile court clinics can be used to obtain mental health evaluations and provide mental health services to the many girls whose trauma and mental health needs are driving their behavior.

- **Reduce the length of stay for girls who must be detained.** Girls can linger in detention—both pre- and post-disposition—due to a perceived or actual lack of community-based alternatives and programming. Detailed release and disposition planning conducted by social service advocates with expertise in girls services who are employed by public defenders or probation offices can identify resources and describe a plan for release that will significantly reduce lengths of stay for girls in detention (e.g., Massachusetts; Dallas, Texas; and San Francisco, California).[241]

THE JUVENILE DETENTION ALTERNATIVES INITIATIVE AND GIRLS

Over 200 jurisdictions in more than 39 states and the District of Columbia have reduced their use of secure detention as a result of participation in The Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI). This data-driven initiative works collaboratively with system stakeholders to implement site-specific, objective decision-making tools that limit the use of secure detention only to youth who pose a risk of flight or risk to public safety. JDAI also works to shore up community and non-justice-system resources to meet the needs of youth. JDAI relies on eight core strategies, which include collaboration, objective decision-making, developing alternatives to detention, and reducing racial and ethnic disparities. The initiative has consistently resulted in reductions in the use of secure detention without any increase in juvenile crime.[242]

Jurisdictions using the eight core strategies achieve reductions in secure detention utilization for all youth and, consequently, secure detention of girls is also generally reduced. Two JDAI publications have described the ways in which girls move into detention and illustrate how the JDAI model can be implemented to respond to the particular challenges of detention reform for girls.[243] JDAI jurisdictions have found that an intentional focus on the particular system pathways through which girls enter detention combined with ongoing monitoring and adjustments to detention reform efforts for girls are critical to make the most of system-wide detention reform efforts so that reductions in girls detentions are sustained at a rate equal to or better than that for boys.

For those girls who are detained, JDAI jurisdictions are trained to use a JDAI facility self-assessment and conduct regular detention facility assessments to ensure that detention facilities (for all youth) conform to standards set out by law, regulation, and professional associations. In all categories of facility assessment—Classification, Health and Mental Health, Access, Programming, Training, Environment, Restraints, and Safety—the JDAI framework is attentive to particular conditions of confinement for girls.[244]

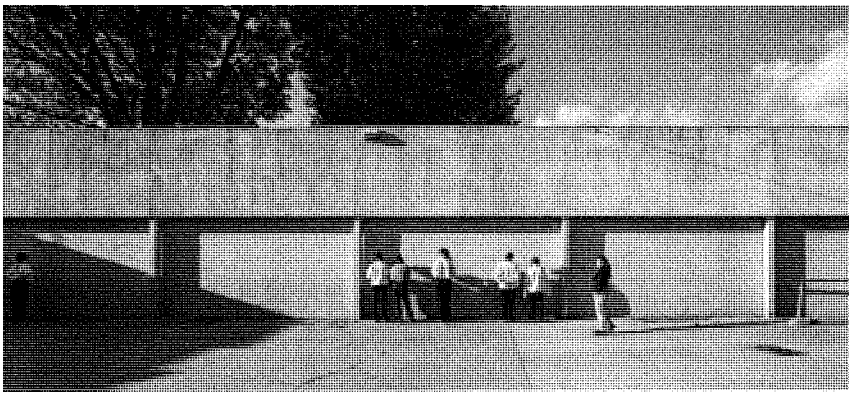
Recommendation 5

Attorneys, Judges, and Probation Should Use Trauma-Informed Approaches to Improve Court Culture for Girls

Overwhelmingly, girls who enter juvenile courts have experienced trauma, the consequences of which may be partially addressed by increasing awareness among court actors of the impact of trauma and incorporating trauma-informed approaches into court culture. The National Child Traumatic Stress Network (NCTSN) notes youth behaviors that may be perceived as disrespectful, defiant, or antisocial are often reactions to trauma, which can be triggered by the court process with all its uncertainty.[245] The NCTSN Trauma-Informed Juvenile Justice Resource site contains briefs and tools to assist judges, attorneys, system administrators, and probation with creating a more trauma-informed court culture.[246]

Examples and Opportunities:

- **Provide girls with broad legal representation.** Attorneys for girls should identify and advocate for holistic solutions. The National Council of Juvenile and Family Court Judges (NCJFCJ) recommends "one family-one judge" case assignments for delinquency and dependency cases, ensuring that all such matters for all members of the same family fall to the same judge who can assess their needs holistically.[247] Similarly, attorneys who conceptualize cases holistically and are well-versed in the range of legal issues affecting girls, will identify and access resources that may not be obvious to attorneys who are more narrowly focused. For example, consistent with the client's wishes, holistic representation for girls would include pursuit of educational programming or disability-related services for girls in the juvenile justice system, or would seek to move dually-involved girls out of the juvenile justice system and into the child welfare system, where they may have greater access to needed services.



- **Ensure that girls have post-disposition representation.** The National Juvenile Defense Standards recommend a comprehensive model of representation—youth should have counsel at all stages of the delinquency process, including post-disposition.[248] The NCJFCJ also states that judges should ensure post-disposition representation for all youth.[249] Post-disposition representation—a rarity for most girls—can help girls entering the juvenile justice system get the services they need to come out in a better place and can reduce their lengths of stay in secure facilities.[250] Such representation can also help reveal, prevent, and remedy individual and institutional abuse in facilities. There is an argument that post-disposition representation is constitutionally required when a youth is at risk of losing her liberty due to a revocation of post-disposition release[251] and post-disposition units of public defender's offices have been established in response to litigation in some jurisdictions (e.g., Washington, D.C., Kentucky, and Massachusetts).

- **Train juvenile defenders and judges on the social contexts and needs of girls.** Proper training of juvenile defenders and judges educates them about the contexts of girl offending and the range of legal issues facing high need-girls (e.g., health access, education, child welfare). Training on the needs of and law related to specific populations of girls is also critical, such as a recent NCJFCJ training for judges on the profiles of trafficked girls, their pathways to victimization, the ways in which system involvement can actually put girls at greater risk for trafficking, and how judges can help improve outcomes for these girls.[252]

- **Provide girls with trauma-informed representation.** While trauma-informed client counseling is becoming the norm in the field of domestic violence, it is much less common with juvenile defense. The American Bar Association issued a policy in 2014 recommending trauma-informed advocacy for youth in the juvenile justice system. The policy emphasizes the importance of cross-systems collaboration and continuity of care, and encourages legal representation that reflects an awareness and understanding of the adverse impacts of trauma on the behavior of youth.[253] Other leaders in the field of juvenile defense recognize the benefits of trauma-informed advocacy, but also caution that a focus on trauma can lead to net-widening, more restrictive interventions, and exacerbated racial biases.[254]

- **Eliminate automatic shackling of girls in the courtroom.** The national Campaign Against Indiscriminate Juvenile Shackling has developed a model statute and court rule to limit shackling; the rule establishes a presumption against shackling, allowing it only upon a court finding that restraints are necessary to prevent physical harm or flight.[255] Some states acknowledge the harms of indiscriminate shackling and have taken steps to end the practice through legislation or changes in court procedure. The practice has been banned or limited in other states by court ruling. However, even legal bans can prove to be ineffective without a change in court culture and vigilance on the part of defense attorneys.[256]

Recommendation 6

Adopt a Strengths-Based, Objective Approach to Self-Promotion Services

A developmental approach to probation requires a shift from the current deficit-based model to one that focuses on girls' strengths, targets conditions to girls' offenses, and limits the duration of probation terms. Such an approach uses probation as an opportunity to shore up positive social environments for girls, encouraging them to be involved in pro-social activities rather than punishing them for minor violations, such as failure to attend meetings in a timely manner.[257]

Examples and Opportunities:

- **Reduce terms and duration of probation.** The most targeted way to address girls rates of technical violations of probation and resulting detention and system escalation is to reduce the terms and lengths of probation so they are carefully tailored to the offense. Data on the numbers of girls detained for technical probation violations suggests that numerous conditions and extended terms of probation are likely to net-widen and push girls deeper into more restrictive settings, rather than support positive community connections and social contexts.

- **Implement a positive youth development (PYD) approach to girls probation.** PYD approaches are strengths-based and resilience-focused, and allow girls to demonstrate competencies, develop healthy relationships, and see their value within their communities.[258] The Washington County and Clackamas County juvenile departments in Oregon and Tomkins County Department of Social Services and Probation in Ithaca, New York have all embraced a strengths-based approach to probation, shifting to a culture with a positive focus.[259] A PYD approach to probation is likely to be effective at reducing detention for girls from traumatic environments—girls who struggle and fail with accountability-based probation models that expect them to comply with rules without providing them the tools to do so and who are then detained due to technical violations of probation.

- **Offer girls on probation incentives and positive reinforcement.** Hawaii and Kentucky are examples of states that specifically require incentives and positive reinforcements for youth who comply with the terms of their probation.[260] Hawaii also allows youth to earn early discharge from probation through good behavior.[261] These positive approaches are particularly important for girls, for whom self-esteem, agency, and relationships are so important.

- **Develop probation officers' expertise on girls' social contexts, needs, and community resources.** Girls should be connected to probation officers who are trained in recognizing their specialized needs and who are connected to community resources specific to girls. Most girls courts assign specialized probation officers to girls; these probation officers carry smaller caseloads and work extensively with the girl and her caregivers. A 2010 evaluation of Hawaii's Girls Court revealed that girls in the program had better relationships with their probation officers than they had outside of Girls Court, and felt they were better able to talk to Girls Court probation officers and build trusting relationships, leading to more positive feelings about Girls Court than traditional juvenile court (see sidebar, p. 10).[262]

- **Use probation risk/needs assessments that are validated for girls.** Research on effective risk assessment instruments is ongoing, and few risk assessments have been studied by gender and validated for girls, especially girls of color (see sidebar, p. 53).[263] However, probation departments that use risk assessment instruments without regard to gender may end up with an inaccurate picture of girls' risk factors and needs, leading to poor matches with services and poor outcomes.

- **Use objective, graduated response grids to respond to girls' behavior.** Some states, such as Georgia, Kentucky, and Hawaii, have shifted to a graduated response approach to probation violations, requiring probation officers to use a detailed matrix to ensure objective responses that are tailored appropriately to the violation and the youth's risk level.[264] These grids detail responses to violations based on the girl's risk level (from the underlying offense) and the seriousness of the violation—so in most girls' cases, in which the underlying offenses are likely to be minor, detention is not an option in response to a technical violation (see sidebar, p. 53).

DATA-DRIVEN TOOLS AND BIAS IN THE JUVENILE JUSTICE SYSTEM: WOMEN AND GIRLS

In the last decade, juvenile justice systems are increasingly using data-driven, objective decision-making tools to guide a range of system decisions—detention, probation services, level of supervision, and length of detention and post-adjudication placement. Objective decision-making aids consistency and some measure of accuracy while reducing the impact of individual bias on many discretionary, high-stakes judicial decisions. As a result, objective decision-making tools are helpful in reducing racial and ethnic disparities[1] and seem to make sense as a way to reduce the bias that often results in the over-confinement of girls for minor offenses and misbehavior. However, as with so many reforms, few objective decision-making tools have been examined for their gender fit.

Detention Risk Assessment Instruments. Detention risk assessment instruments (RAIs) are brief screens that measure a youth's risk of rearrest or flight in order to inform the court's detention decision. Because many girls are charged with minor offenses, their risk scores are often low. RAIs are written to be gender neutral but, as with other system processes, they may end up disadvantaging girls by giving disproportionate weight to social contexts—such as a chaotic family—that are common among girls in the justice system. Girls from chaotic homes may accumulate points toward detention for instances of running away, truancy, or parents refusing to take them home. Consequently, these may result in a youth being in detention, despite stemming from a traumatic home environment where the girl is essentially a victim. As with all objective decision-making tools, to ensure fairness to girls, detention RAIs must be specifically analyzed for gender impact.

Prediction Risk/Needs Assessments and Responsivity Data. Many probation departments now use risk/needs assessment instruments and structured decision-making to help probation officers make more objective and appropriate decisions. As of May 2015, 24 states had adopted the use of risk assessment instruments at the state level.[2] The Structured Assessment of Violence risk in Youth (SAVRY), Washington State Juvenile Court Assessment (WSJCA), and Risk and Resiliency Checklist (RRC) are three tools that have been found to be effective with girls, but they don't all work as well or the same for girls as they do for boys.[3] One study of the SAVRY, for example, found that matching of needs to services in certain areas was correlated to reoffending in a different way for girls than for boys.[4] Moreover, prediction research—which suggests the responses to a youth's probation violation based on the youth's risk level (as determined largely by the offense and the seriousness of the alleged violation of probation)—are a promising reform for girls whose underlying offenses and probation violations are often minor and who are disproportionately detained for technical violations.

Post-Adjudication Placement. One example of a gender-specific approach to post-adjudication services is the Oregon Youth Authority's (OYA) Oregon Typology Assessment, developed to inform dispositional and post-disposition placement and treatment decisions.[5] OYA developed separate male and female youth typologies: six typologies for boys and four typologies for girls. The typologies are research-based and consider primarily criminogenic factors coupled with risk and age to help identify the best placement for each youth. OYA acknowledges that the male typologies are more fully understood than the female typologies. Accordingly, OYA has launched a thorough assessment into the female typologies to make sure they are accurate and predictive for girls, given the concentration of trauma in their profiles.[6]

Recommendation 7

Use Health Dollars to Fund Evidence-Based Programs and Programs to Girls and Address Health Needs Related to Trauma

Because much of the causes of girl offending are related to or rooted in health concerns—mental health struggles due to traumatic experiences and physical health challenges due to poverty, neglect or abuse, motherhood or pregnancy, sexually transmitted diseases, or substance abuse—solutions can and should come from health systems. Medicaid and the Children's Health Insurance Program (CHIP) offer health coverage to low-income children, making them critically important resources for many youth in the juvenile justice system. Currently, however, Medicaid and CHIP are largely overlooked as a means to fund the services that are most likely to benefit many girls caught up in the justice system. Providing these services in girls' communities is critical to continuity of care and relationships.

Examples and Opportunities:

- **Use Medicaid and CHIP as outreach mechanisms to connect girls to health providers.** All girls who touch the juvenile justice system should be immediately screened for Medicaid/CHIP eligibility, and eligible girls should be provided with enrollment assistance.[271]

- **Use health dollars to fund trauma-focused screenings and interventions.** The federal Department of Health and Human Services has specifically advised states to use trauma-focused screenings and evidence-based programs in "child-serving settings," including juvenile justice, and to use Medicaid as a source of funding.[272] Several evidence-based programs have proved effective with girls in the justice system with histories of trauma and are covered, in whole or in part, by Medicaid, including Multidimensional Treatment Foster Care, Multisystemic Therapy, and Functional Family Therapy.[273]

- **Don't allow Medicaid's "inmate of a public institution exclusion" to be a barrier to treatment for girls.** Girls' mental and physical health needs are best addressed in settings to which the "inmate of a public institution exclusion" does not apply—evidence-based and trauma-informed programs in non-institutional community settings. These interventions are more likely to be Medicaid-reimbursable and the concurrent avoidance of detention or secure placement will prevent girls from having Medicaid suspended or terminated while they are in the justice system.

- **Suspend, rather than terminate, Medicaid coverage when girls enter facilities.** Suspension enables Medicaid payment of expenses that are allowable while girls are incarcerated and allows for immediate restoration of health coverage upon release, ensuring that girls have no gaps in critically important treatment or counseling (see sidebar, p. 55).[274] Unfortunately, the CHIP program doesn't allow suspension for incarcerated youth.

SINCE 2012: THE ACTION MOVE FOR GIRLS

Medicaid and CHIP can help girls at all stages of the juvenile justice system, providing funding for programs that identify and support girls at risk of system involvement, community-based programs that support girls who are diverted from formal processing, services in the community for girls who have been adjudicated, and aftercare services that support girls reentry into their communities. However, the complexity of Medicaid and CHIP present obstacles to both systems and girls, leading to their underuse by juvenile justice systems.

Through federal EPSDT (Early and Periodic Screening, Diagnosis and Treatment) requirements, all girls, including justice-involved girls, are entitled to regular screening for health issues, as well as the services they need to help them deal with physical or mental health trauma.[1] Such screenings can help identify health issues facing girls and connect them to treatment focused on traumatic social contexts that may be at the root of health concerns. Medicaid can then fund community-based diversion programs that have proved effective with girls. Some courts have held states to their legal obligations to provide these services to children under the EPSDT mandate.[2]

For girls who do enter juvenile justice facilities, a crucial step to preserving Medicaid is to suspend and not terminate Medicaid coverage upon admission. Yet, despite the clear benefits of suspending rather than terminating Medicaid, as of late 2013, only 12 states had procedures for suspension rather than termination for youth and adults who are incarcerated.[3] California, Colorado, Florida, Iowa, New York, North Carolina, and Oregon are examples of states with policies actively requiring suspension of Medicaid, although some states limit suspension to one year and not all have successfully implemented the policies.[4]

Planning ahead is another way to facilitate correct health care coverage for girls when they leave the system. Colorado, New Mexico, Oregon, Texas, and Washington have all taken steps to plan well ahead—even starting at intake—to ensure Medicaid coverage for youth immediately upon their release back into the community.[5] The Affordable Care Act expands eligibility for children and simplifies enrollment, making it easier for states to ensure coverage for girls upon release.[6]

Other states are making concerted efforts to ensure that Medicaid-eligible services provided to youth in the justice system—such as Multisystemic Therapy—are mixed and for by Medicaid, despite youth being returned to the services through the justice system. Pennsylvania's Bridge and Children's Service initiative, for example, helps clarify what Medicaid covers and what must be paid for by the juvenile justice system.[7] If states shift their expectations of what Medicaid and CHIP can cover for girls in the justice system, they can tap into new sources of funding and ensure seamless delivery of mental and physical health care for girls, all helping to facilitate a developmental approach to justice-involved girls.

Recommendation 3

Limit Secure Confinement of Girls, Which Is Costly, Does Not Meet Developmental Needs, and Re-traumatizes Vulnerable Girls.

Continuing the national trend to downsize and close youth prisons makes particular sense when taking a developmental approach to justice-involved girls. Secure facilities harm girls by re-traumatizing them and are not effective at addressing the issues underlying girls' behavior or providing positive supports to girls in need—and they are extremely expensive (see sidebar, p. 13).

Examples and Opportunities:

- **Close secure "training schools" and institutions for girls.** In the last decade at least 17 such state institutions for girls have been closed and other states have significantly reduced deep-end beds for girls through attrition and system reform. Between 2003 and 2013, the number of girls committed to deep-end, locked facilities across the country declined by 47 percent.[282]

- **Impose legislative limits on the number of girls placed in secure facilities, especially those who have committed non-violent offenses.** California, Florida, Mississippi, Rhode Island, and Texas are examples of states that have used legislative restrictions to reduce the population of youth in secure confinement (see sidebar, p. 57).

- **Limit incarceration of girls by reducing lengths of stay.** States are reducing lengths of stay for all youth by prohibiting time extensions for inappropriate reasons, such as failing to adjust when incarcerated; expanding representation to include disposition and post-disposition hearings; using structured decision-making to determine lengths of stay and match length of stay to treatment needs; and improving case-planning, reentry services, and step-down programming—including innovative use of funding.[283]

- **Comply with the Prison Rape Elimination Act (PREA).** Passed in 2003, PREA and its subsequently promulgated regulations continue to push states to minimize the number of youth who are incarcerated and ensure the safety of youth who remain in prison. States that fail to meet PREA's standards for adult and juvenile facilities—which became effective in August 2012—risk losing a portion of their federal funding. PREA's Youthful Inmate Standard applies to youth held in adult facilities and prohibits housing youth under age 18 with adults; U.S. Department of Justice guidance through the National PREA Resource Center recommends removal of youth from adult jails and prisons as the best means to comply with the Youthful Inmate Standard. The PREA regulations emphasize that isolation should not be used to achieve separation between youth and adults and require regular audits for facilities that house youth. Juvenile facilities in Alabama, Florida, Idaho, Kansas, Massachusetts, New Hampshire, New York, North Dakota, Ohio, Pennsylvania, and Texas were found to be substantially compliant with PREA in 2014.

- **Close secure facilities to reduce costs.** Facility closures can lead to significant financial savings, which can then be reinvested in more cost-effective community-based programs. For example, the Ohio Department of Youth Services has closed four facilities since 2009, including one girls facility. The closures freed up $57 million in operational expenses, a portion of which has been reinvested in community-based programs.[284] Kansas closed a 66-bed girls facility in 2009, resulting in a projected savings of $1.4 million in FY 2009.[285]

- **Use more effective, less expensive community-based alternatives to serve girls.** Developmentally-appropriate alternatives that are rooted in the community and approach youth holistically are far less expensive than incarceration, costing an average of $75 per day, or $27,375 per year (compared to an average institutional cost of $407.58 per day or over $148,000 per year).[286] They are also more effective—yielding far lower recidivism rates than secure placement—and more likely to help girls overcome negative social contexts and trauma. National research conducted by the Washington State Institute for Public Policy reveals clear benefits to community-based interventions such as Multidimensional Treatment Foster Care, Functional Family Therapy, and Multisystemic Therapy.[287]

- **Provide girls with community-based programming that capitalizes on their relationship focus.** Girls' relationship focus and sensitivity can be a factor in their resilience and an opportunity for effective intervention. Multidimensional Treatment Foster Care (MDTFC) and other effective community-based program models have been modified for girls to emphasize relationship skills so that girls learn to more effectively resolve conflicts with peers and family.[288] With MDTFC, for example, a focus on improving girls' peer relationships has reduced their delinquency involvement.[289]

- **Provide girls who would normally be incarcerated with wraparound services.** Youth, even the most high-need, are most successful when they receive intensive community-based wraparound services through a strengths-based approach—services that treat each youth individually, engage youth's families, and give youth a choice about what happens to them.[290] Programs such as these are being used throughout the country with great success, as is demonstrated by the model Youth Advocacy Programs (YAP): one study of over 3,500 high-need youth involved in YAP found that 86 percent remained arrest-free while in the program, and 96 percent were still living in their communities upon discharge from the program.[291]

State Approaches Shrinking Secure Confinement of Girls

Legislation is being used more and more by states to reduce the number of youth who are sent to secure juvenile institutions. While all need increases impact girls, legislation limiting confinement for non-violent offenders is particularly effective at reducing the number of girls who are locked up. Examples include:

- Legislation on incarceration for status offenses. California passed a law in 2007 banning commitments to state-run facilities of youth adjudicated for non-violent offenses. As a result, youth are to be served in their home counties, supported by a percentage of state funding. Since the law passed, the number of girls committed to state facilities has declined nearly 81 percent, from 119 girls in 2006 to 21 girls in 2012, outpacing the decline for boys by six percent.[292] Florida and Texas have passed similar laws limiting incarceration for youth who commit status offenses.[293]

- Legislation on incarceration for misdemeanor offenses. In 2008, Mississippi passed legislation prohibiting courts from sending youth who commit misdemeanor offenses or offenses under the age of 13 to the state training schools without first making a specific finding of fact by a preponderance of the evidence that there is no reasonable alternative to a non-secure setting.[294] The state went a step further in 2010, prohibiting sending youth who have committed non-violent felonies or felony misdemeanors to a state training school.[295] The number of girls in Mississippi committed to residential placements fell from 90 in 2007 to 38 in 2011, with significant reductions in the number of girls locked up for status offenses, other offenses, and technical violations.[296]

- Caps on the number of youth incarcerated. Illinois adopted legislative improvements to cap on the number of youth who can be held in the Illinois state training schools at any given time.[297] When the cap took effect, 65 percent of committed youth, including girls, who did not pose a risk of harm to themselves or the community could be released to [illegible]. In 2007, prior to the implementation of the cap, 28% of the committed youth were placed in secure confinement in [illegible]. The girls were placed in secure confinement with an average daily population of [illegible].[298] Colorado also uses a cap on the number of youth in secure detention, and recently reduced the cap.[299]

Recommendation 9

Prevent young adult women from being released with Juvenile Justice System discharge

Juvenile justice system jurisdiction typically ends at age 18, meaning interventions are discontinued and girls are sent off to live on their own or transferred to adult facilities. Girls receiving developmentally-appropriate services in the community may suddenly be left without support and forced to navigate housing, health care, education, employment, and child care by themselves. Juvenile justice systems do little to address these needs but child welfare and health care resources increasingly available to young adults can help these young women—and their children—obtain stable housing, education, and employment.

Examples and Opportunities:

- **Understand the population of girls aging out of juvenile justice systems.** Regular assessment of girl populations by juvenile justice systems can provide a better understanding of the number of girls who age out, and what their outcomes and needs are.[301]

- **Provide programming and reentry planning that facilitate independent living.** For young women who leave the juvenile justice system to be successful adults, systems must provide a developmentally-appropriate context that facilitates development of "psychosocial capacities": the knowledge and skills needed to navigate society, educational and vocational training that allows them to be productive members of society, and the social skills necessary to create and maintain relationships and function in groups.[302] Systems that focus on social control (e.g., detention and incarceration) rather than social welfare do not provide girls with these capacities and make it difficult for them to transition to life on their own.[303]

- **Change federal policy to support emerging adults and girls in transition from juvenile justice systems.** Both the Chafee and Fostering Connections acts focus on youth in the child welfare system and exclude youth in juvenile justice placements, even though it is clear that many youth—and girls in particular—straddle the two systems and that youth in both systems experience the same traumatic social contexts and environments.[304] Legislation and policies supporting emerging adults and youth in transition should be amended to apply to youth in juvenile justice placements at age 18 and encourage integration among systems, rather than differing treatment of youth facing similar challenges and from similar backgrounds.[305]

- **Support pregnant and parenting young women leaving the system.** There is a significant gap in information about pregnant and parenting girls in the juvenile justice system, which must be filled by research on their needs (see sidebar, p. 25). Provided with such research, evidence-based adolescent mother programs that exist in many jurisdictions—such as Nurse-Family Partnership and Healthy Families—can then modify their interventions to be effective with this very high-risk sub-population of mothers. Solutions should be holistic, focusing on housing, employment, education, health care, and parenting support for both young mothers and their children.

VI. Conclusion

For girls and young women, "gender justice" means a system that is both fair and effective, meeting girls' needs in a balanced and thoughtful way.

Happily, we are in the midst of a surge of juvenile justice reform in the U.S. System-level reforms are occurring across the country, approaching youth behavior through a developmental lens and reducing the number of youth who enter and move through the justice system. We need to make the most of this time of reform by intentionally focusing our efforts on girls, whose behaviors are very often the direct result of traumatic and unhealthy social contexts. The current system over-intervenes in girls' lives and does not provide gender-responsive, culturally-informed supports. However, existing and emerging reforms present opportunities to ensure that the needs of girls are addressed in a developmentally appropriate manner with particular attention to girls' experiences of trauma. As this report details, by assessing the impact of system decisions on girls throughout the juvenile justice process and modifying many existing juvenile justice reforms to fit the needs of girls, juvenile justice systems can be redesigned to promote healthy relationships, shore up girls' social supports, and give girls agency over their lives.

In this developmental era of juvenile justice, it's time to end decades of unfairness to girls and young women and treat them with the respect and care they deserve.

Endnotes

1 Barbara M. Brenzel, *Daughters of the State: A Social Portrait of the First Reform School for Girls in North America, 1856-1905* (Cambridge, MA: The MIT Press, 1983); Anne Meis Knupfer, *Reform and Resistance: Gender, Delinquency, and America's First Juvenile Court* (New York, NY: Routledge, 2001).

2 Francine T. Sherman, "Justice for Girls: Are We Making Progress?" *UCLA Law Review* 59, no. 6 (2012): 1584-1628, 1616-18, http://www.uclalawreview.org/pdf/59-6-5.pdf.

3 Charles Puzzanchera and Sarah Hockenberry, "National Disproportionate Minority Contact Databook" (Pittsburgh, PA: National Center for Juvenile Justice), http://www.ojjdp.gov/ojstatbb/dmcdb/.

4 Angela Irvine, memo to author, March 30, 2015.

5 Katayoon Majd, Jody Marksamer, and Carolyn Reyes, *Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts* (San Francisco, CA: Legal Services for Children; Washington, D.C.: National Juvenile Defender Center; San Francisco, CA: National Center for Lesbian Rights, 2009): 101-12, http://www.modelstorchange.net/publications/237.

6 Charles Puzzanchera, "Juvenile Arrests 2012" (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2014): 3, http://www.ojjdp.gov/pubs/248513.pdf.

7 Ibid.

8 Ibid.

9 OJJDP Statistical Briefing Book, "Juvenile Arrest Rate Trends, 1980-2012," http://www.ojjdp.gov/ojstatbb/crime/JAR_Display.asp?ID=qa05230.

10 Puzzanchera, "Juvenile Arrests 2012," 5.

11 Ibid.

12 Melissa Sickmund, Anthony Sladky, and Wei Kang, "Easy Access to Juvenile Court Statistics: 1985-2013," http://www.ojjdp.gov/ojstatbb/ezajcs/.

13 Ibid.

14 Puzzanchera and Hockenberry, "National Disproportionate Minority Contact Databook."

15 Francine T. Sherman, Richard A. Mendel, and Angela Irvine, *Making Detention Reform Work for Girls* (Baltimore, MD: The Annie E. Casey Foundation, 2013), http://www.aecf.org/m/resourcedoc/AECF-MakingDetentionReformWorkforGirls-2013.pdf; Linda A. Teplin, et al., "Firearm Homicide and Other Causes of Death in Delinquents: A 16-Year Prospective Study," *Pediatrics* 134, no. 1 (2014): 63-73.

16 Melissa Sickmund, et al., "Easy Access to the Census of Juveniles in Residential Placement," http://www.ojjdp.gov/ojstatbb/ezacjrp/.

17 Erin M. Espinosa, Jon R. Sorensen, and Molly A. Lopez, "Youth Pathways to Placement: The Influence of Gender, Mental Health Need and Trauma on Confinement in the Juvenile Justice System," *Journal of Youth and Adolescence* 42, no. 12 (2013): 1824-36.

18 Sarah Hockenberry, "Juveniles in Residential Placement, 2010" (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2013): 15, http://www.ojjdp.gov/pubs/241060.pdf.

19 Puzzanchera and Hockenberry, "National Disproportionate Minority Contact Databook."

20 OJJDP Statistical Briefing Book, "Juvenile Court Cases, 2013," http://www.ojjdp.gov/ojstatbb/court/qa06205.asp?qaDate=2013.

21 Francine Sherman, "The Juvenile Rights Advocacy Project: Representing Girls in Context" *Juvenile Justice* 6, no. 1 (1999): 29-30, https://www.ncjrs.gov/pdffiles1/ojjdp/178254.pdf.

22 Denise C. Herz, Joseph P. Ryan, and Shay Bilchick, "Challenges Facing Crossover Youth: An Examination of Juvenile-Justice Decision Making and Recidivism," *Family Court Review* 48, no. 2 (2010): 305-21.

23 Campaign Against Indiscriminate Juvenile Shackling, "Where Are There Statewide Bans on Automatic Juvenile Shackling?" (Washington, D.C.: National Juvenile Defender Center, 2015).

24 Marty Beyer, "Affidavit of Dr. Marty Beyer" (2015): 5, http://njdc.info/wp-content/uploads/2014/09/Beyer-Affidavit-w-CV-Jan-2015-Final.pdf; Kim M. McLaurin, "Children in Chains: Indiscriminate Shackling of Juveniles," *Washington University Journal of Law and Policy* 38 (2012): 213-39, 224, http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1018&context=law_journal_law_policy.

25 Marty Beyer, e-mail message to author, May 24, 2015.

26 Ibid.

27 Beyer, "Affidavit," 2-4.

28 Sherman, "The Juvenile Rights Advocacy Project"; Sandra Simkins, "Out of Sight, Out of Mind: How the Lack of Post Dispositional Advocacy in Juvenile Court Increases the Risk of Recidivism and Institutional Abuse," *Rutgers Law Review* 60, no. 1 (2007): 101-18, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2449031.

29 National Juvenile Defender Center state assessments, 2001-2013, http://njdc.info/our-work/juvenile-indigent-defense-assessments.

30 Brock Albin, et al., eds., *Montana: An Assessment of Access to Counsel and Quality of Delinquency Proceedings* (Washington, D.C.: American Bar Association, Criminal Justice Section, Juvenile Justice Center, 2003): 3-4, 19-20, 35-36, http://njdc.info/wp-content/uploads/2013/11/Final-Montana-Report-Assessment.pdf; Kim Brooks and Darline Kamine, eds., *Ohio – Justice Cut Short: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings in Ohio* (Washington, D.C.: The American Bar Association, Criminal Justice Section, Juvenile Justice Center, Washington, D.C.: National Juvenile Defender Center, and Covington, KY: Children's Law Center, Inc., Central Juvenile Defender Center, 2003): 7-9, 50-51, http://njdc.info/wp-content/uploads/2013/11/Final-Ohio-Assessment-Report.pdf; Elizabeth Cumming, et al., eds., *Maryland: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* (Washington, D.C.: American Bar Association, Criminal Justice Section, Juvenile Justice Center and Washington, D.C.: Mid-Atlantic Juvenile Defender Center, 2003): 5, 16, 53-55, http://njdc.info/wp-content/uploads/2013/11/Final-Maryland-Assessment-Report.pdf; Patricia Puritz and Kim Brooks, eds., *Kentucky – Advancing Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* (Washington, D.C.: The American Bar Association, Criminal Justice Section, Juvenile Justice Center, Washington, D.C.: National Juvenile Defender Center, and Covington, KY: Children's Law Center, Inc., Central Juvenile Defender Center, 2002): 5, 39-40, http://njdc.info/wp-content/uploads/2013/11/Kentucky_Assessment-FINAL.pdf; Patricia Puritz and Cathryn Crawford, *Florida: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* (Washington, D.C.: National Juvenile Defender Center, 2006): 60, http://njdc.info/wp-content/uploads/2013/11/Florida-Assessment1.pdf; Mary Ann Scali and Ji Seon Song, *South Carolina – Juvenile Indigent Defense: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* (Washington, D.C.: National Juvenile Defender Center, 2010): 23, 43, http://njdc.info/wp-content/uploads/2013/10/Final-South-Carolina-Assessment-Report.pdf.

31 National Research Council, *Reforming Juvenile Justice: A Developmental Approach*, eds. Richard J. Bonnie, et al. (Washington, D.C.: The National Academies Press, 2013): 127-30, 198-205.

32 Janet Davidson, "Hawaii Girls Court, State of Hawaii: Family Court of the First Circuit, Program Characteristics, Outcomes and Recommendations" (Honolulu, HI: Girls Court, Hawaii State Judiciary, 2008); Janet T. Davidson, "Girls Court Evaluation Summary, 2009" (Honolulu, HI: Girls Court, Hawaii State Judiciary, 2009); Janet T. Davidson, "Girls Court Evaluation Summary, 2010" (Honolulu, HI: Girls Court, Hawaii State Judiciary, 2010); Janet T. Davidson, "Girls Court Evaluation Summary, 2011" (Honolulu, HI: Girls Court, Hawaii State Judiciary, 2011); Lisa Pasko, "Hawaii Girls Court Evaluation Report" (2005); Lisa Pasko, "Hawaii Girls Court: Second Cohort Evaluation Report" (2006).

33 Sickmund, Sladky, and Kang, "Easy Access to Juvenile Court Statistics."

34 Emily Gaarder, Nancy Rodriguez, and Marjorie S. Zatz, "Criers, Liars, and Manipulators: Probation Officers' Views of Girls," *Justice Quarterly* 21, no. 3 (2004): 547-78, 556, http://cw.routledge.com/textbooks/9780415884433/instructorManual/data/Gaarder,%20Rodriguez,%20Zatz%20-%20Criers,%20liars,%20and%20manipulators.pdf.

35 Ibid.

36 George S. Bridges and Sara Steen, "Racial Disparities in Official Assessments of Juvenile Offenders: Attributional Stereotypes as Mediating Mechanisms," *American Sociological Review* 63, no. 4 (1998): 554-70, 561.

37 Sickmund, Sladky, and Kang, "Easy Access to Juvenile Court Statistics."

38 Sickmund, et al., "Easy Access to the Census of Juveniles."

39 National Research Council, *Reforming Juvenile Justice*, 123-26; Shaena Fazal, *Safely Home: Reducing Youth Incarceration and Achieving Positive Youth Outcomes*

for High and Complex Need Youth through Effective Community-Based Programs (Washington, D.C.: Youth Advocacy Programs Policy and Advocacy Center, 2014), http://www.safelyhomecampaign.org/Portals/0/Documents/Safely%20Home%20Preview/safelyhome.pdf?ver=2.0.

40 Ian Lambie and Isabel Randell, "The Impact of Incarceration on Juvenile Offenders," *Clinical Psychology Review* 33, no. 3 (2013): 448-59.

41 Ibid., 451-52, 454; National Research Council, *Reforming Juvenile Justice*, 126.

42 Lambie and Randell, "The Impact of Incarceration," 450-51.

43 Justice Policy Institute, *Sticker Shock: Calculating the Full Price Tag for Youth Incarceration* (Washington, D.C., 2014), 3, http://www.justicepolicy.org/uploads/justicepolicy/documents/sticker_shock_final_v2.pdf.

44 Anna Aizer, and Joseph J. Doyle. Jr., "Juvenile Incarceration, Human Capital, and Future Crime: Evidence from Randomly-Assigned Judges" (National Bureau of Economic Research Working Paper No. 19102, 2013).

45 Todd D. Minton and Zhen Zeng, "Jail Inmates at Mid-Year 2014," (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2015), 3, http://www.bjs.gov/content/pub/pdf/jim14.pdf.

46 Antoinette Davis, Andrea Gentile, and Caroline Glesmann, "No Place for Youth: Girls in the Adult Justice System" (Washington, D.C.: National Institute of Corrections, in press).

47 Edward P. Mulvey and Carol A. Schubert, "Transfer of Juveniles to Adult Court: Effects of a Broad Policy in One Court," (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2012), http://www.ojjdp.gov/pubs/232932.pdf.

48 State of Connecticut Office of the Child Advocate, "From Trauma to Tragedy: Connecticut Girls in Adult Prison," (Hartford, CT: 2008), http://www.ct.gov/oca/lib/oca/From_Trauma_to_Tragedy_CT_-_Girls_in_Adult_Prison_7-08.pdf.

49 Kimberlé Williams Crenshaw, "Black Girls Matter: Pushed Out, Overpoliced and Underprotected" (New York, NY: African American Policy Forum, Center for Intersectionality and Social Policy Studies, 2015), http://www.atlanticphilanthropies.org/sites/default/files/uploads/BlackGirlsMatter_Report.pdf; Jyoti Nanda, "Blind Discretion: Girls of Color and Delinquency in the Juvenile Justice System," *UCLA Law Review* 59, no. 6 (2012): 1502-39, http://www.uclalawreview.org/pdf/59-6-3.pdf; Sherman, "Justice for Girls."

50 Puzzanchera and Hockenberry, "National Disproportionate Minority Contact Databook."

51 Chongmin Na and Denise C. Gottfredson, "Police Officers in Schools: Effects on School Crime and the Processing of Offender Behaviors," *Justice Quarterly* (2011): 1-32, http://ccjs.umd.edu/sites/ccjs.umd.edu/files/pubs/Police%20Officers%20in%20Schools-Effects%20on%20School%20Crime%20and%20the%20Processing%20of%20Offending%20Behaviors.pdf; Matthew T. Theriot, "School Resource Officers and the Criminalization of Student Behavior" *Journal of Criminal Justice* 37, no. 3 (2009): 280-287, http://youthjusticenc.org/download/education-justice/school-policing-security/School%20Resource%20Of%EF%AC%81cers%20and%20the%20Criminalization%20of%20Student%20Behavior.pdf.

52 Strategies for Youth, "If Not Now, When? A Survey of Juvenile Justice Training in America's Police Academies" (Cambridge, MA, 2013): 16, http://strategiasforyouth.org/sfysite/wp-content/uploads/2013/03/SFYReport_02-2013_rev.pdf.

53 Denise C. Herz and Anika M. Fontaine, "Final Data Report for the Crossover Youth Practice Model, Aggregate Report, 2010/2011 Cases," (Washington, D.C.: Center for Juvenile Justice Reform, Georgetown University Public Policy Institute, 2013): 7-8, http://cjrr.georgetown.edu/wp-content/uploads/2015/05/CYPM-Aggregate-Report.pdf.

54 Ibid.

55 Ibid., 7.

56 Ibid., 13.

57 Sarah Hockenberry and Charles Puzzanchera, "Juvenile Court Statistics 2011" (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2014): 66, 71, http://www.ncjj.org/pdf/jcsreports/jcs2011.pdf.

58 Ibid., 71.

59 Ibid.

60 Hockenberry and Puzzanchera, "Juvenile Court Statistics 2011," 81, 83.

61 Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, 42 U.S.C. §§ 5601–5784 (2006).

62 Office of Juvenile Justice and Delinquency Prevention, "State Use of the Valid Court Order Exception" (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, 2015), http://www.ojjdp.gov/compliance/FY2013-FY%202014VCO-state.pdf.

63 Michael P. Krezmien, et al., "Juvenile Court Referrals and the Public Schools: Nature and Extent of the Practice in Five States," *Journal of Contemporary Criminal Justice* 26, no. 3 (2010): 273-93, 287, http://youthjusticenc.org/download/juvenile-justice/juvenile-and-criminal-representation/Juvenile%20Court%20Referrals%20and%20the%20Public%20Schools%20-%20Nature%20and%20Extent%20of%20the%20Practice%20of%20Five%20States.pdf.pdf.

64 Krezmien, et al., "Juvenile Court Referrals," 288.

65 Na and Gottfredson, "Police Officers in Schools," 17-18, 24; Theriot, "School Resource Officers," 281-82, 285.

66 Crenshaw, "Black Girls Matter," 30-31.

67 Ibid., 34-39.

68 Hockenberry and Puzzanchera, "Juvenile Court Statistics 2011," 72.

69 Crenshaw, "Black Girls Matter," 34-39; Leticia Smith-Evans, et al., *Unlocking Opportunity for African American Girls: A Call to Action for Educational Equity* (New York, NY: NAACP Legal Defense Fund and Washington, D.C.: National Women's Law Center, 2014), 20-27, http://www.naacpldf.org/files/publications/Unlocking%20Opportunity%20for%20African%20American%20Girls_0.pdf.

70 Sheryl H. Kataoka, Lily Zhang, and Kenneth B. Wells, "Unmet Need for Mental Health Care among U.S. Children: Variation by Ethnicity and Insurance Status," *American Journal of Psychiatry* 159, no. 9 (2002): 1549-55, 1552-53.

71 Espinosa, Sorensen, and Lopez, "Youth Pathways to Placement," 1826, 1833.

72 Andrea J. Sedlak, and Karla S. McPherson, "Youth Needs and Services: Findings from the Survey of Youth in Residential Placement" (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency prevention, 2010): 6, http://www.ncjrs.gov/pdffiles1/ojjdp/227728.pdf.

73 Sedlak and McPherson, "Youth Needs and Services," 7.

74 Michelle Staples-Horne, "Addressing the Specific Health Care Needs of Female Adolescents," *Corrections Today* 69, no. 5 (2007): 42-45.

75 Social Security Act, U.S. Code 42 (2007), § 1905(a)(28)(A).

76 Carrie Hanlon, Jennifer May, and Neva Kaye, "A Multi-Agency Approach to Using Medicaid to Meet the Health Needs of Juvenile Justice-Involved Youth" (Washington, D.C.: National Academy for State Health Policy and Chicago, IL: Models for Change, John D. and Catherine T. MacArthur Foundation, 2008): 6-9, http://www.nashp.org/sites/default/files/Multi_Agency_NASHP.pdf.

77 Puzzanchera, "Juvenile Arrests 2012," 3.

78 Margaret A. Zahn, et al., "Violence by Teenage Girls: Trends and Context" (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2008), 6-7, https://www.ncjrs.gov/pdffiles1/ojjdp/218905.pdf.

79 Sherman, "Justice for Girls," 1603-4.

80 Paul A. Toro, Amy Dworsky, and Patrick J. Fowler, "Homeless Youth in the United States: Recent Research Findings and Intervention Approaches" (Washington, D.C.: National Symposium on Homelessness Research, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation and U.S. Department of Housing and Urban Development, Office of Policy, Development, and Research, 2007): 6-4, http://www.huduser.org/portal//publications/pdf/p6.pdf.

81 Ibid., 6-6; Adrienne L. Fernandes-Alcantara, "Runaway and Homeless Youth: Demographics and Programs" (Washington, D.C.: Congressional Research Service, 2013): 9, http://www.nchcw.org/uploads/7/5/3/3/7533556/crs_2013_rhya_history_and_lit_review.pdf.

82 Shari Miller, Leslie D. Leve, and Patricia K. Kerig, *Delinquent Girls: Contexts, Relationships and Adaptation* (New York, NY: Springer, 2012).

83 Social Security Act, U.S. Code 42 (2008), § 627(c).

84 Michael R. Pergamit, Marla McDaniel, and Amelia Hawkins, "Housing Assistance for Youth Who Have Aged Out of Foster Care: The Role of the Chafee Foster Care Independence Program," (Washington, D.C.: The Urban

Institute and U. S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, 2012): 6-7, http://aspe.hhs.gov/hsp/12/chafeefostercare/rpt.pdf; Social Security Act, U.S. Code 42 (2008), § 671(a)(30).

85 Urie Bronfenbrenner, "Ecological Systems Theory," in *Six Theories of Child Development: Revised Formulations and Current Issues*, ed. Ross Vasta (London: Jessica Kingsley, 1992), 187-249.

86 Julianna K. Sapienza and Ann S. Masten, "Understanding and Promoting Resilience in Children and Youth," *Current Opinion in Psychiatry*, 24, no. 4 (2011): 267-73.

87 Joanne Belknap, *The Invisible Woman: Gender, Crime, and Justice*, 3rd ed. (Belmont, CA: Thomson Wadsworth Publishing Company, 2007); Meda Chesney-Lind, "Girls' Crime and Woman's Place: Toward a Feminist Model of Female Delinquency," *Crime and Delinquency* 35, no. 1 (1989): 5-29; Crystal A. Garcia and Jodi Lane, "Dealing with the Fall-Out: Identifying and Addressing the Role that Relationship Strain Plays in the Lives of Girls in the Juvenile Justice System," *Journal of Criminal Justice* 40, no. 3 (2012): 259-67, 260.

88 Patricia Chamberlain, Leslie D. Leve, and David S. DeGarmo, "Multidimensional Treatment Foster Care for Girls in the Juvenile Justice System: 2-Year Follow-up of a Randomized Trial," *Journal of Consulting and Clinical Psychology* 75, no. 1 (2006): 187-93, 187, http://www.mtfc.com/2007%20Girls%20in%20JJ%20System_2_year_Outcomes.pdf; Selby M. Conrad, et al., "Gender Differences in Recidivism Rates for Juvenile Justice Youth: The Impact of Sexual Abuse," *Law and Human Behavior* 38, no. 4 (2014): 305-14, 310; Abigail A. Fagan, et al., "Gender Similarities and Differences in the Association between Risk and Protective Factors in Self-reported Serious Delinquency," *Prevention Science* 8, no. 2 (2007): 115-124; Malika Saada Saar, et al., "The Sexual Abuse to Prison Pipeline: The Girls' Story," (Washington, D.C.: Human Rights Project for Girls, Washington, D.C.: Georgetown Law Center on Poverty and Inequality, Brooklyn, NY: Ms. Foundation for Women, 2015), http://rights4girls.org/wp-content/uploads/r4g/2015/02/2015_COP_sexual-abuse_layout_web-1.pdf.

89 Michael T. Baglivio, et al., "The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders," *OJJDP Journal of Juvenile Justice* 3, no. 2 (2014): 1-23, 8, http://www.journalofjuvjustice.org/JOJJ0302/JOJJ0302.pdf.

90 Cathy S. Widom and Michael G. Maxfield, "An Update on the 'Cycle of Violence'" (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, 2001): 3-4, https://www.ncjrs.gov/pdffiles1/nij/184894.pdf.

91 Espinosa, Sorensen, and Lopez, "Youth Pathways to Placement."

92 Nussbaum, W., Berry, S., Hartnett, S., & Vincent, G. M. et al. (in press). Adolescent Domestic Battery Typologies Tool Manual. Chicago: John D. & Catherine T. MacArthur Foundation.

93 Ibid.

94 Catherine C. McDonald, et al., "Community Violence Exposure and Positive Youth Development in Urban Youth," *Journal of Community Health* 36, no. 6 (2011): 925-32, 925; Terri N. Sullivan, Eva M. Kung, and Albert D. Farrell, "Relation Between Witnessing Violence and Drug Use Initiation Among Rural Adolescents: Parental Monitoring and Family Support as Protective Factors," *Journal of Clinical Child and Adolescent Psychology* 33, no. 3 (2004): 488-98, 495.

95 Gillian M. Pinchevsky, Emily M. Wright, and Abigail A. Fagan, "Gender Differences in the Effects of Exposure to Violence on Adolescent Substance Use," *Violence and Victims* 28, no. 1 (2013): 122–44, http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3707115/.

96 Robin Smith, et al., "Coercive Sexual Environments: What MTO Tells Us about Neighborhoods and Sexual Safety," *Cityscape* 16, no. 1 (2014): 65-112, 86, 102, http://www.huduser.org/portal/periodicals/cityscape/vol16num1/ch4.pdf.

97 Ibid., 88-89.

98 Abbey B. Berenson, Constance M. Wiemann, and Sharon McCombs, "Exposure to Violence and Associated Health-Risk Behaviors Among Adolescent Girls," *Archives of Pediatrics and Adolescent Medicine* 155, no. 11 (2001): 1238–42, http://archpedi.jamanetwork.com/article.aspx?articleid=191181; Jennifer D. Foster, Gabriel P. Kuperminc, and Ann W. Price, "Gender Differences in Posttraumatic Stress and Related Symptoms Among Inner-City Minority Youth Exposed to Community Violence," *Journal of Youth and Adolescence* 33, no. 1 (2004): 59-69; Dean G. Kilpatrick, et al., "Violence and Risk of PTSD, Major Depression, Substance Abuse/Dependence, and Comorbidity: Results from the National Survey of Adolescents," *Journal of Consulting and Clinical Psychology* 71, no. 4 (2007): 692-700, http://www.apa.org/pubs/journals/releases/ccp-714692.pdf.

99 Smith, et al., "Coercive Sexual Environments," 104, 106; Stacy Overstreet and Shawnee Brown, "Exposure to Community Violence and Post-traumatic Stress Symptoms: Mediating Factors," *American Journal of Orthopsychiatry* 70, no. 2 (2000): 263-71.

100 Emily J. Ozer and Rhona S. Weinstein, "Urban Adolescents' Exposure to Community Violence: The Role of Support, School Safety, and Social Constraints in a School-Based Sample of Boys and Girls," *Journal of Clinical Child and Adolescent Psychology* 33, no. 3 (2004): 463-76, 473.

101 Sedlak and McPherson, "Youth Needs and Services," 5

102 Centers for Disease Control and Prevention, "Sexually Transmitted Disease Surveillance 2011" (Atlanta, GA: U.S. Department of Health and Human Services, 2012), 9, 21, 85-86, 2015, http://www.cdc.gov/std/stats11/surv2011.pdf.

103 Patricia K. Kerig, et al., "Deconstructing PTSD: Traumatic Experiences, Posttraumatic Symptom Clusters, and Mental Health Problems among Delinquent Youth," *Journal of Child and Adolescent Trauma* 5, no. 2 (2012): 129-44; Patricia K. Kerig and Stephen P. Becker, "Trauma and Girls' Delinquency," in *Delinquent Girls: Contexts, Relationships, and Adaptation*, eds. Shari Miller, Leslie D. Leve, and Patricia K. Kerig (New York, NY: Springer, 2012): 119-43.

104 Kerig, et al., "Deconstructing PTSD."

105 Linda A. Teplin, et al., "Psychiatric Disorders in Youth in Juvenile Detention," *Archives of General Psychiatry* 59, no. 12 (2002): 1133-43, 1136-38, http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2861992/pdf/nihms171651.pdf; Linda A. Teplin, et al., "The Northwestern Juvenile Project: Overview" (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2013): 11, http://www.ojjdp.gov/pubs/234822.pdf.

106 Ibid.

107 Linda A. Teplin, et al., "Firearm Homicide and Other Causes of Death in Delinquents: A 16-Year Prospective Study," *Pediatrics* 134, no. 1 (2014): 63-73, 67, http://pediatrics.aappublications.org/content/early/2014/06/10/peds.2013-3966.full.pdf+html.

108 Puzzanchera and Hockenberry, "National Disproportionate Minority Contact Databook."

109 Kimberle Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *The University of Chicago Legal Forum* 140 (1989): 139-67, http://philpapers.org/archive/CREDTI.pdf.

110 U.S. Department of Education Office for Civil Rights, "Civil Rights Data Collection: Data Snapshot (School Discipline)," *Issue Brief* no. 1 (2014): 3, http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf.

111 Smith-Evans, et al., *Unlocking Opportunity for African American Girls*, 16.

112 Nikki Jones, *Between Good and Ghetto: African American Girls and Inner-City Violence* (Piscataway, NJ: Rutgers University Press, 2010).

113 Crenshaw, "Black Girls Matter," 24; Morris, "Race, Gender and the School-to-Prison Pipeline," 5-6; Smith-Evans, et al., *Unlocking Opportunity for African American Girls*, 18.

114 Angela Irvine, memo to author, March 30, 2015.

115 Ibid.

116 Ibid.

117 Ibid.

118 Ibid.

119 Ibid.

120 Joanne Belknap, Kristi Holsinger, and Jani Little, "Sexual Minority Status, Abuse, and Self-Harming Behaviors among Incarcerated Girls," *Journal of Child and Adolescent Trauma* 5, no. 2 (2012): 173-85; Majd, Marksamer, and Reyes, *Hidden Injustice*, 101-12.

121 Belknap, Holsinger, and Little, "Sexual Minority Status"; Kristi Holsinger and Jessica P. Hodge, "The Experiences of Lesbian, Gay, Bisexual, and Transgender Girls in Juvenile Justice Systems," *Feminist Criminology*, 3, published online November 23, 2014, doi: 10.1177/1557085114557071; Irvine, memo to author.

122 Hirokazu Yoshikawa, J. Lawrence Aber, and William R. Beardslee, "The Effects of Poverty on the Mental, Emotional, and Behavioral Health of Children and Youth: Implications for Prevention," *American Psychologist* 67, no. 4 (2012): 272-84, http://www.researchgate.net/publication/224956205_The_

Effects of Poverty on the Mental, Emotional and Behavioral Health of Children and Youth Implications for Prevention.

123 Martha E. Wadsworth, et al., "An Indirect Effects Model of the Association between Poverty and Child Functioning: The Role of Children's Poverty-Related Stress," *Journal of Loss and Trauma* 13, no. 2-3 (2008): 156-85, 157.

124 Ibid., 159, 179.

125 Eric Jensen, *Teaching with Poverty in Mind: What Being Poor Does to Kids' Brains and What Schools Can Do about It* (Alexandria, VA: ASCD, 2009): 13-45, http://www.ascd.org/cache/publications/books/109074.aspx; Wadsworth, et al., "An Indirect Effects Model."

126 Charlotte Lyn Bright and Melissa Jonson-Reid, "Onset of Juvenile Court Involvement: Exploring Gender-Specific Associations with Maltreatment and Poverty," *Children and Youth Services Review* 30, no. 8 (2008): 914-27, 915, 925.

127 Mark E. Courtney, et al., "Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 19" (Chicago, IL: Chapin Hall Center for Children at the University of Chicago, 2005): 52-54, http://www.chapinhall.org/sites/default/files/ChapinHallDocument_4.pdf; Cassandra Logan, et al., "Childhood Sexual Abuse and Teen Pregnancy: A White Paper" (Bethesda, MD: Child Trends, Inc., 2007), http://sspw.dpi.wi.gov/sites/default/files/imce/sspw/pdf/respiteabuseandpreg_2007.pdf; Stefanie Mollborn and Elizabeth Morningstar, "Investigating the Relationship between Teenage Childbearing and Psychological Distress Using Longitudinal Evidence," *Journal of Health and Social Behavior* 50, no. 3 (2009): 310-326; Jennie G. Noll, Chad E. Shenk, and Karen T. Putnam, "Childhood Sexual Abuse and Adolescent Pregnancy: A Meta-Analytic Update," *Journal of Pediatric Psychology* 34, no. 4 (2009): 366-78; Christopher P. Salas-Wright, et al., "Substance Use and Teen Pregnancy in the United States: Evidence from the NSDUH 2002-2012," *Addictive Behaviors* 45 (2015): 218-225.

128 Mollborn and Morningstar, "Investigating the Relationship," 319, 322.

129 America's Promise Alliance and The National Campaign to Prevent Teen and Unplanned Pregnancy, "Policy Brief: Preventing Teen Pregnancy Is Critical to School Completion" *Briefly…* (July 2010): 2, https://thenationalcampaign.org/sites/default/files/resource-primary-download/briefly_policybrief_school_completion.pdf; Kate Perper, Kristen Peterson, and Jennifer Manlove, "Diploma Attainment among Teen Mothers" (Washington, D.C.: Child Trends, Inc., 2010): 1, http://www.childtrends.org/wp-content/uploads/2010/01/child_trends-2010_01_22_FS_diplomaattainment.pdf.

130 Saul D. Hoffman and Rebecca A. Maynard, eds., *Kids Having Kids: Economic Costs and Social Consequences of Teen Pregnancy*. 2nd ed. (Washington, D.C.: The Urban Institute Press, 2008): 51-118.

131 Ellen E. Pinderhughes, Karen T. Craddock, and LaTasha L. Fermin, "Adolescent Parents in the Juvenile Justice System: Toward a Developmentally and Socioculturally Based Provision of Services," in *Juvenile Justice: Advancing Research, Policy, and Practice*, eds. Francine T. Sherman and Francine H. Jacobs (Hoboken, NJ: John Wiley and Sons, Inc., 2011): 174-96.

132 Andrea J. Sedlak, and Carol Bruce, "Youth's Characteristics and Backgrounds: Findings from the Survey of Youth in Residential Placement," (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2010): 6, https://www.ncjrs.gov/pdffiles1/ojjdp/227730.pdf.

133 Catherine A. Gallagher, Adam Dobrin, and Anne S. Douds, "A National Overview of Reproductive Health Services for Girls in Juvenile Justice Residential Facilities," *Women's Health Issues* 17, no. 4 (2007): 217-26; Survey of Youth in Residential Placement online analysis, https://syrp.org/online_analysis.html.

134 The National Crittenton Foundation, "Summary of Results: Crittenton Adverse Childhood Experiences (ACE) Pilot" (Portland, OR, 2012): 4, http://www.nationalcrittenton.org/wp-content/uploads/2015/03/ACEresults.pdf.

135 Ashley Nellis and Richard Hooks Wayman, "Back on Track: Supporting Youth Reentry from Out-of-Home Placement to the Community" (Washington, D.C.: Juvenile Justice and Delinquency Prevention Coalition, Youth Reentry Task Force, 2009): 40, http://sentencingproject.org/doc/publications/CC_youthreentryfall09report.pdf.

136 Vincent J. Felitti, et al., "Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study," *American Journal of Preventative Medicine* 14, no. 4 (1998): 245-58.

137 Ibid., 249-55.

138 Baglivio, et al., "The Prevalence of Adverse Childhood Experiences," 8-9.

139 Ibid.

140 Ibid., 9.

141 Ibid., 8; Elizabeth Cauffman, et al., "Posttraumatic Stress Disorder Among Female Juvenile Offenders," *Journal of the American Academy of Child and Adolescent Psychiatry* 37, no. 11 (1998): 1209-17; 1212-14; Carly B. Dierkhising, et al., "Trauma Histories among Justice-Involved Youth: Findings from the National Child Traumatic Stress Network," *European Journal of Psychotraumatology* 4 (2013): 5-6, http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3714673/.

142 Baglivio, et al., "The Prevalence of Adverse Childhood Experiences," 9.

143 Crittenton Foundation, "Summary of Results," 4.

144 Ibid.

145 Meda Chesney-Lind and Lisa Pasko, *The Female Offender: Girls, Women and Crime*, 2nd ed. (Thousand Oaks, CA: SAGE Publications, Inc., 2004); Garcia and Lane, "Dealing with the Fall-Out."

146 Laurence Steinberg, *Age of Opportunity: Lessons from the New Science of Adolescence* (New York, NY: Houghton Mifflin Harcourt, 2014), 48-58.

147 Crenshaw, "Black Girls Matter."24-25; Smith-Evans, et al., *Unlocking Opportunity for African American Girls*, 6, 18.

148 Garcia and Lane, "Dealing with the Fall-Out."

149 Patricia K. Kerig, "For Better or Worse: Intimate Relationships as Sources of Risk or Resilience for Girls' Delinquency," *Journal of Research on Adolescence* 24, no. 1 (2014): 1-11, 1-2.

150 Ibid.; Kathryn C. Monahan, Julia Dmitrieva, and Elizabeth Cauffman, "Bad Romance: Sex Differences in the Longitudinal Association between Romantic Relationships and Deviant Behavior," *Journal of Research on Adolescence* 24, no. 1 (2014): 12-26.

151 Elizabeth Cauffman, Susan P. Farruggia, and Asha Goldweber, "Bad Boys or Poor Parents: Relations to Female Delinquency," *Journal of Research on Adolescence* 18, no. 4 (2008): 699-712, 705-9; Kerig, "For Better or Worse," 1-2; Amy M. Young and Hannah d'Arcy, "Older Boyfriends of Adolescent Girls: The Cause or a Sign of a Problem?," *Journal of Adolescent Health* 36, no. 5 (2005): 410–19, 411.

152 Garcia and Lane, "Dealing with the Fall-Out," 260-61, 264-66; Jungmeen Kim and Dante Cicchetti, "Longitudinal Pathways Linking Child Maltreatment, Emotion Regulation, Peer Relations, and Psychopathogy," *Journal of Child Psychology and Psychiatry* 51, no. 6 (2010): 706-16, 712-13, accessed June 18, 2015, http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3397665/.

153 Sherman, "Justice for Girls," 1601-5; Zahn, et al., "Violence by Teenage Girls," 7, 11-12, 15.

154 Francine T. Sherman and Jessica H. Greenstone, "The Role of Gender in Youth Systems: Grace's Story" in *Juvenile Justice: Advancing Research, Policy, and Practice*, eds. Francine T. Sherman and Francine H. Jacobs (Hoboken, NJ: John Wiley and Sons, Inc., 2011): 131-55.

155 Smith-Evans, et al., *Unlocking Opportunity for African American Girls*, 15-18.

156 Ibid., 20-22.

157 Katherine C. Pears, Hyoun K. Kim, and Leslie D. Leve, "Girls in Foster Care: Risk and Promotive Factors for School Adjustment across the Transition to Middle School," *Children and Youth Services Review* 34, no. 1 (2012): 234-43, 234-36.

158 Centers for Disease Control and Prevention, "Sexually Transmitted Disease Surveillance," 66, 85-86.

159 Gallagher, Dobrin, and Douds, "A National Overview of Reproductive Health Services," 217-18.

160 Jennifer Benoit-Bryan, "National Trends on Youth in Crisis in the United States" (Chicago, IL: National Runaway Safeline, 2015), 24-25, http://www.1800runaway.org/wp-content/uploads/2015/05/2015-Trend-Report-FINAL.pdf.

161 Ibid.

162 Hockenberry and Puzzanchere, "Juvenile Court Statistics 2011," 71.

163 Heather Hammer, David Finkelhor, and Andrea J. Sedlak, "Runaway/Thrownaway Children: National Estimates and Characteristics" (Washington, D.C.: National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2002), 6, 8-9, https://www.ncjrs.gov/pdffiles1/ojjdp/196469.pdf.

164 Yumiko Aratani and Janice L. Cooper, "The Effects of Runaway-Homeless Episodes on High School Dropout," *Youth and Society* 47, no. 2 (2015): 173-98; Heather J. Clawson, et al., "Human Trafficking into and within the United States: A Review of the Literature" (Washington, D.C.: U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, 2009), 10-11, http://aspe.hhs.gov/basic-report/human-trafficking-and-within-united-states-review-literature; Sydney McKinney, "Runaway Youth: A Research Brief" (New York, NY: Vera Institute of Justice, Center for Youth Justice, Status Offense Reform Center, 2014), 2-4, http://www.statusoffensereform.org/wp-content/uploads/2014/05/Running-Away_Final.pdf; Kimberly A. Tyler, Sarah J. Gervais, and M. Meghan Davidson, "The Relationship between Victimization and Substance Use Among Homeless and Runaway Female Adolescents," *Journal of Interpersonal Violence* 28, no. 3 (2013): 474-93, http://digitalcommons.unl.edu/cgi?article=1202&context=sociologyfacpub.

165 Kan. Stat. § 38-2201, *et seq.*; N.C. Gen. Stat. § 7B-1500, *et seq.*

166 Mass. G.L. c. 119, § 39H.

167 Fiza Quraishi, Heidi J. Segal, and Jennifer Trone, "Respite Care: A Promising Response to Status Offenders at Risk of Court-Ordered Placements" (New York, NY: Vera Institute of Justice, 2002), http://www.vera.org/sites/default/files/resources/downloads/IB_Respite_care.pdf.

168 Ibid.; Julia Laskorunsky, "Runaway Prevention Literature Review" (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2009), 9-10, http://www2.dsgonline.com/uso/Runaway%20Prevention%20Literature%20Review.pdf.

169 Chesney-Lind, "Girls' Crime and Woman's Place," 5-29.

170 Francine Sherman and Marsha L. Levick, "When Individual Differences Demand Equal Treatment: An Equal Rights Approach to the Special Needs of Girls in the Juvenile Justice System," *Wisconsin Women's Law Journal* 18, no. 1 (2003): 9-50, http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1572&context=lsfp.

171 20 U.S.C. § 1415(l).

172 See, e.g., *Barnhardt v. Meridian Municipal Separate School District*, Civil Action No. 4:65-cv-01300-HTW-LRA 1300(E) (2013), http://www.justice.gov/iso/opa/resources/8502013322112486846502.pdf.

173 See, e.g., *Lopez ex rel Lothes v.Butler County Juvenile Rehabilitation Center*, No. 1:04-CV-508 (Oh. 2006) and *Lothes v. Butler County Juvenile Rehabilitation Center*, 243 Fed. Appx. 950 (6th Cir. 2007).

174 Catherine E. Lhamon, "Questions and Answers on Title IX and Sexual Violence" (Washington, D.C.: U.S. Department of Education, Office of Civil Rights, 2014), 5, http://translaw.wpengine.com/wp-content/uploads/2014/04/qa-201404-title-ix.pdf.

175 See, e.g., *People v. Clore*, No. 228439 (Mi. 2001).

176 See, e.g., *Lopez ex rel* and *Lothes v. Butler County*.

177 See, e.g., *Benson v. Florida*, 763 So. 2d 1235 (Fla. Dist. Ct. App. 2nd District 2000); *State v. Spina*, 982 P.2d 421 (Mont. 1999); *In re Gwenette D.*, 191 Cal.App.3d 1247 (1987).

178 See, e.g., *S. H. v. Stickrath*, Case No. 2:04-cv-1206 (S.D. Ohio filed Apr. 4, 2007) and *ACLU of New Mexico v. NM Children, Youth, and Families Department*, No. D 0101CV200702921 (D. N.M. filed Nov. 11, 2007).

179 *Gary H. v. Hegstrom*, 831 F.2d1430, 1432 (9th Cir. 1987); *Jones v. Blanas*, 393 F.3d 918, 931 (9th Cir. 2004); *Youngberg v. Romeo*, 457 U.S. 307(1982); *Bell v. Wolfish*, 441 U.S. 520 (1979).

180 *U.S. v. The State of New York and The New York Office of Children and Family Services*, settlement agreement, http://www.justice.gov/crt/about/spl/documents/NY_juvenile_facilities_settle_07-14-10.pdf.

181 *U.S. v. Arizona*, 2:04-CV-01926-EHC, § III.B.1 (D. Ariz. filed Sept. 15, 2004).

182 Ralph F Boyd, "Baltimore City Detention Center Findings Letter." U.S. Department of Justice, http://www.justice.gov/crt/about/spl/documents/baltimore_findings_let.php.

183 *R.G. v. Koller*, 415 F.Supp. 2d 1129 (D. Haw. 2006).

184 *J.A. v. Barbour*, 3:07–cv–00394 (S.D. Miss. filed Jul. 11, 2007); H.B. 244/Chapter 555, 2008.

185 *Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010); *J.D.B. v. North Carolina*, 564 U.S. ___ (2011); *Miller v. Alabama*, 567 U.S. ___ (2012).

186 National Research Council, *Reforming Juvenile Justice*.

187 National Research Council, *Implementing Juvenile Justice Reform: The Federal Role* (Washington, D.C.: The National Academies Press, 2014), 18-19.

188 Sarah Cusworth Walker, Ann Muno, and Cheryl Sullivan-Colglazier, "Principles in Practice: A Multistate Study of Gender-Responsive Reforms in the Juvenile Justice System," *Crime and Delinquency*, published online August 31, 2012, doi: 10.1177/0011128712449712.

189 Policy No. 74, June 15, 2011.

190 H. 1644/S. 631.

191 H.B. 243/Act No. 404, 2012.

192 H.B. 242, Article 6, 2013.

193 H.B. 916/Act No. 651, 2013.

194 S.B. 73, 2015.

195 *Commonwealth v. Weston W.*, 455 Mass. 24 (2009).

196 S.B. 108/Act No. 191, signed into law May 27, 2013; effective October 1, 2013.

197 Roxana Matiella, "Domestic Violence Alternative Center, Pima County Juvenile Court Center" (presentation at the Juvenile Detention Alternatives Initiative 2014 Inter-Site Conference, Philadelphia, PA, June 4, 2014), http://www.jdaihelpdesk.org/intersiteconf2014/From%20Family%20Conflict%20to%20Collaboration%20(2014%20Conference).pdf.

198 Nicole Hay, Domestic Minor Sex Trafficking, Dallas Texas (Shared Hope International, 2008), http://sharedhope.org/wp-content/uploads/2012/09/Dallas_PrinterFriendly2.pdf.

199 Sergeant Donna Gavin, telephone interview by author, March, 2015.

200 S.B. 1356/Act No. 1351, 2013.

201 Herz and Fontaine, "Final Data Report for the Crossover Youth Practice Model"; Lorrie Lutz and Macon Stewart, "Crossover Youth Practice Model" (Washington, D.C.: Georgetown University, McCourt School of Public Policy, Center for Juvenile Justice Reform, 2015), http://cjjr.georgetown.edu/our-work/crossover-youth-practice-model/.

202 Douglas Thomas, et al., "When Systems Collaborate: How Three Jurisdictions Improved Their Handling of Dual-Status Cases" (Pittsburgh, PA: National Center for Juvenile Justice, 2015), 5-7, http://www.ncjj.org/pdf/Juvenile%20Justice%20Geography,%20Policy,%20Practice%20and%20Statistics%202015/.

203 John A. Tuell, "Child Welfare and Juvenile Justice Systems Integration Initiative: A Promising Progress Report" (Arlington, VA: Child Welfare League of America, 2008), http://www.rfknrcj.org/images/PDFs/Child_Welfare__Juvenile_Justice_Systems_Integration_Initiative_A_Promising_Progress_Report.pdf.

204 Shay Bilchik, telephone interview by author, March 25, 2015.

205 Thomas, et al., "When Systems Collaborate," 9-12.

206 Ibid., 13-15.

207 "Advisory Opinion of the State of Alabama Office of the Attorney General to Honorable Huey Hoss Mack, Baldwin County Sheriff, No. 2013-026," January 25, 2013, http://www.ago.state.al.us/opinions/pdf/2013-026.pdf.

208 Gene Siegel and Gregg Halemba, "Promising Practices in the Diversion of Juvenile Domestic Violence Cases," (Pittsburgh, PA: National Center for Juvenile Justice, 2015), http://www.ncjj.org/pdf/Gene%20Gregg%20report/PromisingPracticesJuvenileDVdiversion2015.pdf.

209 Puzzanchera, "Juvenile Arrests 2012," 3.

210 Preventing Sex Trafficking and Strengthening Families Act, 2014.

211 Institute of Medicine and National Research Council of the National Academies, *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States* (Washington, D.C., 2013).

212 Minnesota Department of Public Safety, Office of Justice Programs, "No Wrong Door: A Comprehensive Approach to Safe Harbor for Minnesota's Sexually Exploited Youth" (St. Paul, MN, 2013), https://dps.mn.gov/divisions/ojp/forms-documents/Documents/2012%20Safe%20Harbor%20Report%20%28FINAL%29.pdf.

213 H.F. 1233, 2013; H.F. 1958/S.F. 1857, 2014.

214 S.B. 6476/Ch. 289, 2010.

215 S.B. 855/Ch. 29, 2014.

216 All County Letter (ACL) No. 15-48, May 29, 2015, http://www.dss.cahwnet.gov/lettersnotices/EntRes/getinfo/acl/2015/15-48.pdf.

217 Kimberly Mehlman-Orozco, "Safe Harbor Policies for Juvenile Victims of Sex Trafficking: A Myopic View of Improvements in Practice," *Social Inclusion* 3, no. 1 (2015): 52-62, http://www.cogitatiopress.com/ojs/index.php/socialinclusion/article/download/56/pdf_15.

218 Office of Juvenile Justice and Delinquency Prevention, "State Use of the Valid Court Order Exception."

219 Coalition for Juvenile Justice, "Status Offenses: A National Survey" (Washington, D.C.: Coalition for Juvenile Justice, SOS Project, 2015), http://www.juvjustice.org/sites/default/files/resource-files/Status%20Offenses%20-%20A%20National%20Survey%20WEB%20%282%29.pdf.

220 Child Requiring Assistance Law, MGLA c. 119 §39, *et seq.*

221 E.g., Connecticut, C.S.G. §46(b)-148; Florida, F.S.A. § 984.01, *et. seq.*, Iowa Code § 232.1, *et. seq.*; Massachusetts, Mass. Gen. Laws Ch. 119 § 21, *et. seq.*; New Hampshire, N.H. Rev. Stat. § 169-D:2, *et. seq.*; New Mexico, N.M. Stat. § 32A-3B-2, *et. seq.*; Vermont, Vt. Stat. Ann. tit. 33 § 5102; Vt. Stat. Ann. tit. 33 § 5301 *et. seq.*

222 Annie Balck, *Advances in Juvenile Justice Reform: 2009-2011* (Washington, D.C.: National Juvenile Justice Network, 2012), http://www.njjn.org/uploads/advances-2009/NJJN-Advances-in-Juvenile-Justice-Reform_2009-2011.pdf.

223 E.g., Virginia, H.B. 1864/Act No. 800, 2013; Delaware, H.B. 120/Ch. 64, 2009; Florida, S.B. 1540/Ch. 53, 2009; Colorado, H.B. 1345/Act. No. 188, 2012; Texas, H.B. 171, 2009; New Hampshire, H.B. 433/Act No. 2013-0198, 2013; California, A.B. 420, 2014; Rhode Island, H.B. 7287, 2012; Louisiana, S.B. 527/Act 136, 2010.

224 E.g., Connecticut Judicial Branch Policy No. 74, June 15, 2011.

225 H.B. 660/Ch. 231, 2009.

226 H.B. 1794/Ch. 70, 2009.

227 S.B. 133/Ch. 210, 2011.

228 S.B. 5881/Ch. 266, 2009; H.B. 6499/Public Act 11-136, 2011; Mass. G. L. c. 119, § 39E; c. 69, § 10.

229 Crenshaw, "Black Girls Matter"; Morris, "Race, Gender and the School-to-Prison Pipeline"; Smith-Evans, et al., *Unlocking Opportunity for African American Girls*.

230 Pears, Kim, and Leve, "Girls in Foster Care."

231 Coalition for Juvenile Justice, "National Standards for the Care of Youth Charged with Status Offenses" (Washington, D.C.: Coalition for Juvenile Justice, SOS Project, 2013), 16, 22-24, 35-36, http://www.juvjustice.org/sites/default/files/ckfinder/files/National%20Standards%20for%20the%20Care%20of%20Youth%20Charged%20with%20Status%20Offenses%20FINAL%281%29.pdf.

232 Marty Beyer, "Listening to Girls in Strengths/Needs-Based Service Planning," http://www.martybeyer.com/content/listening-girls-strengthsneeds-based-service-planning.

233 Ibid.

234 The Annie E. Casey Foundation, "Four Approaches to Family Team Meetings" (Baltimore, MD, 2013), http://www.aecf.org/m/resourcedoc/FourApproachestoFamilyTeamMeetings.pdf.

235 Siegel and Halemba, "Promising Practices."

236 Hawaii H.B. 2490, 2014; Kentucky S.B. 200, 2014.

237 Cathy Burgos, telephone interview by author, March, 19, 2015.

238 H.B. 997/Ch. 124, 2011.

239 Cathy Burgos.

240 Sherman, Mendel, and Irvine, *Making Detention Reform Work for Girls*, 10-11; Francine T. Sherman, *Detention Reform and Girls: Challenges and Solutions* (Baltimore, MD: The Annie E. Casey Foundation, 2005), 11-12, 16, http://www.aecf.org/m/resourcedoc/AECF-DetentionReformAndGirls-2005.pdf.

241 Sherman, Mendel, and Irvine, *Making Detention Reform Work for Girls*.

242 Richard A. Mendel, *Two Decades of JDAI: From Demonstration Project to National Standard*. (Baltimore, MD: The Annie E. Casey Foundation, 2009), 14-20, http://www.aecf.org/m/resourcepop/aecf-TwoDecadesofJDAIfromDemotoNatl-2009.pdf.

243 Sherman, *Detention Reform and Girls*; Sherman, Mendel, and Irvine, *Making Detention Reform Work for Girls*.

244 Juvenile Detention Alternatives Initiative, *Juvenile Detention Facility Assessment: 2014 Update* (Baltimore, MD: The Annie E. Casey Foundation, 2014), 94-192, http://www.aecf.org/m/resourcedoc/aecf-juvenildetentionfacilityassessment-2014-f.pdf.

245 The National Child Traumatic Stress Network, "Juvenile Justice System," 2015, http://www.nctsn.org/resources/topics/juvenile-justice-system.

246 Ibid.

247 National Council of Juvenile and Family Court Judges, *Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases*, (Reno, NV, 2005), https://www.isc.idaho.gov/juvenile/pdfs/improving_Court_Practice_Juvenile_Delinquency_Cases.pdf.

248 National Juvenile Defender Center, *National Juvenile Defense Standards* (Chicago, IL: John D. and Catherine T. MacArthur Foundation, Models for Change, 2012), 23-25, http://njdc.info/wp-content/uploads/2013/09/NationalJuvenileDefenseStandards2013.pdf.

249 National Council of Juvenile and Family Court Judges, *Juvenile Delinquency Guidelines*, 25, 135, 169, 181.

250 Jessica Feierman, Kacey Mordocai, and Robert G. Schwartz, "Ten Strategies to Reduce Juvenile Length-of Stay" (Philadelphia, PA: Juvenile Law Center, 2015), 7-8, http://jlc.org/sites/default/files/publication_pdfs/LengthofStayStrategies-Final.pdf; Simkins, "Out of Sight, Out of Mind"; Sherman, "The Juvenile Rights Advocacy Project."

251 See, e.g., *Gagnon v. Scarpelli*, 441 U.S. 778 (1973); *Morrissey v. Brewer*, 408 U.S. 471 (1972).

252 National Council of Juvenile and Family Court Judges, "National Judicial Institute on Domestic Child Sex Trafficking," http://www.ncjfcj.org/OCS12015.

253 American Bar Association, "ABA Policy on Trauma-Informed Advocacy for Children and Youth" (Chicago, IL, 2014), http://www.americanbar.org/content/dam/aba/administrative/child_law/ABA%20Policy%20on%20Trauma-Informed%20Advocacy.authcheckdam.pdf.

254 Jessica Feierman and Lauren Fine, *Trauma and Resilience: A New Look at Legal Advocacy for Youth in the Juvenile Justice and Child Welfare Systems* (Philadelphia, PA: Juvenile Law Center, 2014), http://www.jlc.org/sites/default/files/publication_pdfs/Juvenile%20Law%20Center%20-%20Trauma%20and%20Resilience%20-%20Legal%20Advocacy%20for%20Youth%20in%20Juvenile%20Justice%20and%20Child%20Welfare%20Systems.pdf.

255 Campaign Against Indiscriminate Juvenile Shackling, "Model Statute/Court Rule" (Washington, D.C.: National Juvenile Defender Center, 2015), http://njdc.info/wp-content/uploads/2014/09/CAIJS-Model-Statutes-Court-Rules-May-15.pdf.

256 National Juvenile Defender Center, "Ending the Indiscriminate Shackling of Youth" (Washington, D.C.: National Juvenile Defender Center, 2014), 1, http://njdc.info/wp-content/uploads/2014/10/Shackling-HR-10.9.14.pdf.

257 Jeffrey A. Butts, Gordon Bazemore, and Aundra Saa Meroe, "Positive Youth Justice: Framing Justice Interventions Using the Concepts of Positive Youth Development" (Washington, D.C.: Coalition for Juvenile Justice, 2010), https://positiveyouthjustice.files.wordpress.com/2013/09/pyj2010.pdf; National Research Council, *Reforming Juvenile Justice*, 195, 206.

258 Butts, Bazemore, and Meroe, "Positive Youth Justice."

259 William H. Barton and Jeffrey A. Butts, *Building on Strength: Positive Youth Development in Juvenile Justice Programs* (Chicago, IL: Chapin Hall Center for Children at the University of Chicago, 2008), 17-22, 27, http://www.yapinc.org/Portals/0/Documents/Resources/Chapin%20Hall%20Report-YAP%20Mention.pdf.

260 HRS §571-48.5 (2014); KRS §15A.0652 (2014).

261 HRS §571-48.6 (2014).

262 Davidson, "Girls Court Evaluation Summary, 2010."

263 Sherman, "Justice for Girls," 1621-22.

264 OCGA 15-11-605; KRS §15A.0652 (2014); HRS §571-48.5 (2014); see, e.g., Kentucky Corrections Policies and Procedures, "Graduated Sanctions and Discretionary Detention: Policy Number 27-15-03" (2012).

265 Juvenile Detention Alternatives Initiative, "Detention Reform: An Effective Approach to Reduce Racial and Ethnic Disparities in Juvenile Justice" (Baltimore, MD: The Annie E. Casey Foundation), 5-6, http://www.jdaihelpdesk.org/JDAI%20Policy%20and%20Program%20Briefs/JDAI%20Detention%20Reform%20Brief%203%20An%20Effective%20Approach%20to%20Reduce%20Racial%20and%20Ethnic%20Disparities.pdf.

266 Andrew Wachter, "Statewide Risk Assessment in Juvenile Probation" (Pittsburgh, PA: National Center for Juvenile Justice, JJGPS StateScan, 2015), http://www.ncjj.org/pdf/JJGPS%20StateScan/JJGPS%20StateScan%20State-wide%20Risk%20Assessment%202014_2.pdf.

267 Gina M. Vincent, Anna Terry, and Shannon Maney, "Review of Evidence-Based and Promising Risk/Needs Assessment Tools for Juvenile Justice" (Worcester, MA: National Youth Screening and Assessment Project, 2009), 8, 19, 24, http://modelsforchange.net/publications/442.

268 Gene Salomone, Rebecca J. Nelson, and Scarlet P. Woods, "Gender: An Important Factor in the Implementation of Services for Juvenile Offenders," *Systems and Psychosocial Advances Research Center Publications and Presentations*, Paper 619 (2013), http://escholarship.umassmed.edu/cgi/viewcontent.cgi?article=1667&context=psych_cmhsr.

269 "Youth Risk Overview," Oregon Youth Authority, http://www.oregon.gov/oya/pages/research/jjstriskoverview.aspx.

270 Paul Bellatty, email-messages to author, April 30, May 6, and May 8, 2015.

271 Leslie Acoca, Jessica Stephens, and Amanda Van Fleet, "Health Coverage and Care for Youth in the Juvenile Justice System: The Role of Medicaid and CHIP" (Menlo Park, CA: The Kaiser Commission on Medicaid and the Uninsured, 2014), 6, https://kaiserfamilyfoundation.files.wordpress.com/2014/05/8591-health-coverage-and-care-for-youth-in-the-juvenile-justice-system.pdf; Council of State Governments Justice Center, "Medicaid and Financing Health Care for Individuals Involved with the Criminal Justice System," (New York, NY: Council of State Governments Justice Center, 2013), 10-11, http://csgjusticecenter.org/wp-content/uploads/2013/12/ACA-Medicaid-Expansion-Policy-Brief.pdf; National Conference of State Legislatures, "Juvenile Justice Guidebook for Legislators: Medicaid for Juvenile Justice-Involved Children," (Denver, CO: National Conference of State Legislatures, 2011), 10-11, http://www.ncsl.org/documents/cj/jjguidebook-medicaid.pdf.

272 George H. Sheldon, Marilyn Tavenner, and Pamela S. Hyde, "Letter to State Directors Re: Trauma-Focused Screenings, Functional Assessments, and Evidence-Based Practices in Child-Serving Settings" (U.S. Department of Health and Human Services, July 11, 2013), http://www.medicaid.gov/Federal-Policy-Guidance/Downloads/SMD-13-07-11.pdf.

273 Hanlon, May, and Kaye, "A Multi-Agency Approach"; Sarabeth Zemel, et al., "Facilitating Health Care Coverage for Juvenile Justice-Involved Youth" (Washington, D.C.: National Academy for State Health Policy and Chicago, IL: John D. and Catherine T. MacArthur Foundation, Models for Change, 2013), 18-19, http://www.nashp.org/sites/default/files/Facilitating_Access_to_Health_Care_Coverage.pdf; Youth Law Center, "Medicaid for Youth in the Juvenile Justice System" (Oakland, CA, 2006), 4, http://toolkit.coloradofederation.org/wp-content/uploads/2011/09/Advocate-7.pdf.

274 Council of State Governments Justice Center, "Medicaid and Financing Health Care," 2-3; Hanlon, May, and Kaye, "A Multi-Agency Approach," 9; National Conference of State Legislatures, "Juvenile Justice Guidebook for Legislators," 8.

275 Hanlon, May, and Kaye, "A Multi-Agency Approach," 6.

276 See, e.g., *Rosie D. v. Romney*, 410 F. Supp. 2d 18 (D. Mass. 2006).

277 Council of State Governments Justice Center, "Medicaid and Financing Health Care," 3.

278 §4011.11, California Penal Code, California Statutes; Colorado HB 08-006/Ch. 242; §409.9025, Title 30, Social Welfare, Florida Statutes; §249A.38, Iowa Statutes; North Carolina Administrative Letter 09-08; New York Administrative Directive 08-OHIP/ADM 3; §411.439, Volume 10, Oregon Revised Statutes; Council of State Governments Justice Center, "Medicaid and Financing Health Care," 6-9; Zemel, et al., "Facilitating Health Care Coverage," 10-11.

279 Hanlon, May, and Kaye, "A Multi-Agency Approach"; Zemel, et al., "Facilitating Health Care Coverage," 12-13.

280 Acoca, Stephens, and Van Fleet, "Health Coverage and Care," 7.

281 Hanlon, May, and Kaye, "A Multi-Agency Approach," 14.

282 Sickmund, et al. "Easy Access to the Census of Juveniles."

283 Feierman, Mordecai, and Schwartz, "Ten Strategies."

284 Balck, *Advances in Juvenile Justice Reform*, 25.

285 Ibid., 21.

286 Fazal, *Safely Home*, 5; Justice Policy Institute, *Sticker Shock*, 3.

287 Evidence-Based Practice Institute and Washington State Institute for Public Policy, "Updated Inventory of Evidence-Based, Research-Based, and Promising Practices for Prevention and Intervention Services for Children and Juveniles in the Child Welfare, Juvenile Justice, and Mental Health Systems" (Olympia, WA, 2014), http://www.wsipp.wa.gov/ReportFile/1564/Wsipp_Updated-Inventory-of-Evidence-Based-Research-Based-and-Promising-Practices-for-Prevention-and-Intervention-Services-for-Children-and-Juveniles-in-Child-Welfare-Juvenile-Justice-and-Mental-Health-Systems_Inventory.pdf; Evidence-Based Practice Institute and Washington State Institute for Public Policy, "Inventory of Evidence-Based, Research-Based, and Promising Practices for Prevention and Intervention Services for Children and Juveniles in the Child Welfare, Juvenile Justice, and Mental Health Systems" (Olympia, WA, 2012), http://www.wsipp.wa.gov/ReportFile/1333/Wsipp_Inventory-of-Evidence-Based-Research-Based-and-Promising-Practices_Inventory.pdf.

288 Ashley M. Mayworm and Jill D. Sharkey, "Gender-Specific Mental Health Outcomes of Community-Based Delinquency Intervention," *OJJDP Journal of Juvenile Justice* 3, no. 1 (2013): 15-35, http://www.journalofjuvjustice.org/JOJJ0301/JOJJ0301.pdf; Dana K. Smith, Patricia Chamberlain, and Esther Deblinger, "Adapting Multidimensional Treatment Foster Care for the Treatment of Co-Occurring Trauma and Delinquency in Adolescent Girls," *Journal of Child & Adolescent Trauma* 5, no. 3 (2012): 224-238.

289 Patricia Chamberlain, Leslie D. Leve, and David S. DeGarmo, "Multidimensional Treatment Foster Care for Girls in the Juvenile Justice System: 2-Year Follow-Up of a Randomized Trial," *Journal of Consulting and Clinical Psychology* 75, no. 1 (2008): 187-93, 187, http://www.mtfc.com/2007%20Girls%20in%20JJ%20System_2_year_Outcomes.pdf.

290 Fazal, *Safely Home*.

291 Douglas Evans and Sheyla Delgado, "Most High Risk Youth Referred to Youth Advocate Programs, Inc. Remain Arrest Free and in their Communities During YAP Participation" (New York, NY: John Jay College of Criminal Justice, 2014), 2, https://jjrec.files.wordpress.com/2011/07/yapfacts201401.pdf.

292 S.B. 81, 2007.

293 Office of Juvenile Research – Information Systems Unit – OBITS, "Population Overview as of December 31, 2007" (Sacramento, CA: California Department of Corrections and Rehabilitation, Division of Juvenile Justice, 2007), http://www.cdcr.ca.gov/Reports_Research/docs/research/Population_Overview/POPOVER2007.pdf; Research and Evaluation Branch – Information Systems Unit – OBITS/DHH, "Population Overview as of December 21, 2014" (Sacramento, CA: California Department of Corrections and Rehabilitation, Division of Juvenile Justice, 2014), http://www.cdcr.ca.gov/Reports_Research/docs/research/Population_Overview/POPOVER2014.pdf.

294 Florida S.B. 2115/Ch. 54, 2011; Texas S.B. 103, 2007.

295 H.B. 1494/Ch. 559, 2009.

296 S.B. 2984, 2010.

297 Sickmund, et al. "Easy Access to the Census of Juveniles."

298 H. 7204A/Ch. 9, 2008.

299 John Neubauer, e-mail message to author, March 19, 2015.

300 S.B. 177/Act No. 88, 2013.

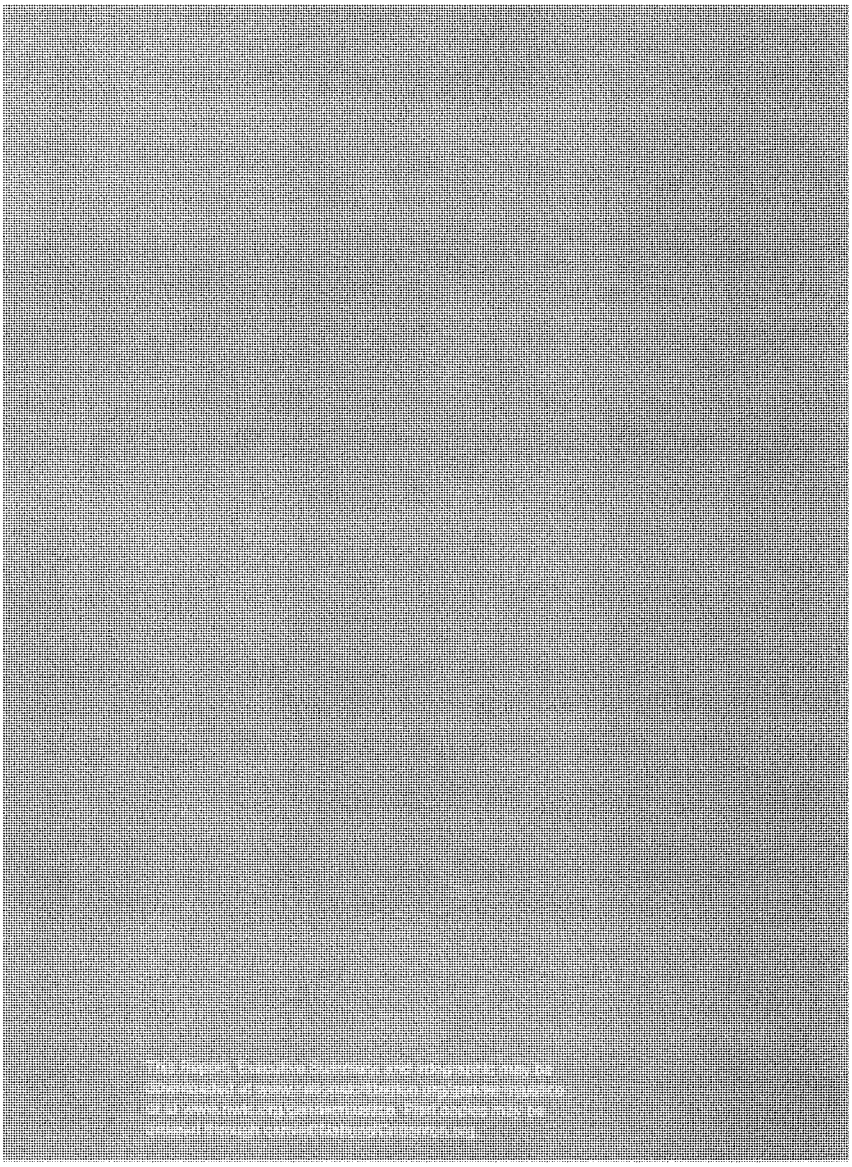
301 D. Wayne Osgood, E. Michael Foster, and Mark E. Courtney, "Vulnerable Populations and the Transition to Adulthood," *The Future of Children* 20, no. 1 (2010): 209-29, 224-25, http://files.eric.ed.gov/fulltext/EJ883086.pdf.

302 Laurence Steinberg, He Len Chung, and Michelle Little, "Reentry of Young Offenders from the Justice System: A Developmental Perspective," *Youth Violence and Juvenile Justice* 2, no. 1 (2004): 21-38.

303 Ibid.

304 David Altschuler, et al., *Supporting Youth in Transition to Adulthood: Lessons Learned from Child Welfare and Juvenile Justice* (Washington, D.C.: Center for Juvenile Justice Reform and St. Louis, MO: Jim Casey Youth Opportunities Initiative, 2009), http://www.jimcaseyyouth.org/sites/default/files/documents/Georgetown%20child%20welfare%20and%20juvenile%20justice.pdf.

305 Osgood, Foster, and Courtney, "Vulnerable Populations," 221-22.



Judge TESKE. But, yes, it's not anecdotal. You know, we do have statistics around that where trauma-informed practices make a difference.

Ms. CLARK. Thank you.

Chairman KLINE. I thank the gentlelady. And everybody's awareness of time management has gone up.

Mr. Allen, you're recognized.

Mr. ALLEN. Thank you, Mr. Chairman.

And thank you, panel, for sharing your work here with us today.

And, Mr. Baxter, you have incredible testimony. And I would just like to ask you first, obviously, you are mentoring younger people. What is it that you share with them that would have made a difference which would have turned your life around before you went down the—I mean, do you have to experience these? Do you have to experience these things like, you know, youth detention and things like that to learn a lesson or is there some way we can get to them early before they actually make maybe the same mistakes you did?

Mr. BAXTER. I think it's definitely a way to get to it before it happens. One way, I think Ms. Wilson was saying, was definitely about school, because school is directly connected to your home. That's the only way that you would be able to get in between that, between the community, the youth, and the school. So these are all things that are kind of necessity for us to have something on our mind at all times.

Then I didn't really know, you know, the perspective of an adult to a youth, You know, so I was kind of lost. And me being lost, I was trying to find my way. So, yeah, I might have known you touch a stove you might get burned, I know that, but I'm going to do it anyway, you know, to see what the—how it goes. You know, so I was curious, I was very, very curious because no one was telling me anything. So I had to find out on my own.

So something I would have to say would be schools, schools oriented.

Mr. ALLEN. Judge, you and Governor Deal have worked extensively on this justice reform in Georgia, and I congratulate you on your efforts.

You know, one of the things that's concerning to—should be concerning to all of us is the fact that, for whatever reason, the family is not working. And it's very difficult out there for our kids. I mean, they are the ones that suffer. What do you see as—how can we restore the family unit in this country?

Judge TESKE. I made reference to it earlier, but I'll mine it down a little bit further, and that is in our local communities building collaborative relationships that laser focus on our families. My suggestion would be that the best formula is to identify the kids who are dropping out of school. I mean, who would ever think that keeping kids in school would improve graduation rates, okay, you know? But the thing is, is that how goes graduation, so goes crime.

And so that's why juvenile justice is so important, because all kids become adults. If you want better adults, then help our kids. And so what that means is, is that the formula goes like this: Develop a profile of the kids dropping out of school, then determine

their needs. You are going to find that most of the kids dropping out are from poverty and are traumatized.

Then you have to develop a collaborative community plan that strategically addresses that. And like I said, what communities are doing now are developing these independent backbone agencies that are referral sources, and that's the laser focus that gets into the homes where schools can't get, courts can't get, you see, yeah.

Mr. ALLEN. Yeah, schools have a tough time. We had a superintendent say: You know, I could do a lot better job if I had better parents.

Thank you. I yield back.

Chairman KLINE. I thank the gentleman.

Mrs. Davis, you're recognized.

Mrs. DAVIS. Thank you, Mr. Chairman. And I certainly look forward to a strong bipartisan reauthorization of the juvenile justice bill.

I really appreciate Mr. Baxter. We always point to whoever is here, the young person who—because it's important. It's so important to hear that voice. And so I appreciate the fact that you, you know, related to the fact that people would need to be up to date on technology. The world kind of like has gone by when someone's in a detention facility that is not reaching out in the way of bringing people up to date.

But I also wanted to ask you more about the training of staff, of individuals, of providers in a few areas. Certainly, in terms of anything related to sexual assault, abuse, and also how they deal with racial implicit bias, cultural competency.

Did you see a big difference in terms of the staff that you interacted with in different facilities, the community versus a detention facility? And what can we, what should we be doing? Is this something that should be built in any kind of legislation that we do, that we're making sure that people are being trained properly?

Mr. BAXTER. I'm glad you asked that question. There's a difference in training very much from a person who is at a detention center from someone who is at a residential campus that teaches you things. The residential campuses, of course, they have minor defense for themselves. At these facilities, that's all they're doing. All they're doing is managing people. You know, you don't really have a voice, so they're managing physical bodies. That's their job. Their job is hands on.

With other programs and things, programs like his, [Mr. Goldsmith's] they have to find out who you are first and then they put things in your way for you to run back around and get, almost as planting a small seed and letting it grow.

So, yes, the training is very different so far as between detention centers and places like Boys Town, or in things like that, because they don't have the skills in these facilities, lockdown facilities, they don't have the skills. They're not trained on that. You know, they're not trained to emotionally stabilize someone, or anything, or give them too much more knowledge outside of what they may already know. So, yes.

Mrs. DAVIS. Okay. And for those of you, you know, Judge and others, is it too naive to think that some of those skills could be built into any facility, or do you think they are, actually?

Judge TESKE. Well, no, I think it is too naive, quite frankly. I'm going to go out there because, think about it for a moment, in Georgia, 65 percent of all kids who go into a secure facility reoffend within 3 years of getting out, and of crimes much worse than what even put them in there. Forty percent—nearly 40 percent of the kids we put in secure lockup in Georgia were low-risk offenders. That's not a really good investment on taxpayer dollar.

And I agree with Mr. Baxter, it's because when you put kids in a secure facility you've separated them from their family. We've all been—everyone here who's spoken has acknowledged it's about the family. Well, how can you really be serious and I be serious about fixing kids when we know family is number one, but we put them in prison and take them away from their family? And now I'll shut up.

Mrs. DAVIS. Okay. I think my time is almost up.

I wanted to just ask as we move forward, because this is the Education and the Workforce Committee as well, of understanding what kind of communication, what kind of support, what kind of training is necessary to expand in our schools? What would you build in? What would you like to see as we move forward? And we know that there are great schools that do a good job, but I think it should be part and parcel of everything that we do, and appreciate your input.

Thank you.

Chairman KLINE. The gentlelady's time has expired.

Mr. Curbelo.

Mr. CURBELO. Thank you, Mr. Chairman.

Mr. Baxter, thank you for your very valuable testimony. You have a very moving story, but it's also a personal story and it takes courage and humility to state it in such a public forum. So thank you very much also for giving us a good example of what works and what doesn't work.

It's clear to me that we're in the midst of a fast-paced evolution in the juvenile justice system. In Miami-Dade County Public Schools, where I had the privilege of serving on the board, as did my colleague Ms. Wilson, who you heard from earlier, they have done away with out-of-school suspensions, something that would have been unheard of just a few years ago and something that I certainly support.

So it's clear that we're moving from a punishment-based system to a rehabilitation-based system, from exclusion to inclusion. What I want to ask you, and I will get to as many of you as I can, is what do you think we can do through a potential reauthorization to accelerate the pace of this evolution and to really have a smart, youth-centered juvenile justice system? I'll start with Mr. Cohen.

Mr. COHEN. Thank you, sir.

Well, you mentioned out-of-school suspensions, and that was an issue that we looked at briefly in the Texas Legislature. You know, the issue with out-of-school suspension is that, especially for an issue like truancy, you're going to punish the child for skipping school by making sure that they don't go to school. It just seems to be one of those nonsensical issues, or nonsensical ways of addressing a serious issue.

When it comes to school discipline writ large and what the Federal Government can do, I would actually say, again, it's about making the information known of what has worked in the various States that it has worked in. When it comes to some sort of mandatory compulsion through a grant scheme, I'm not necessarily sure that always is going to beget the outcomes that this body wants simply because that creates a dependence on the Federal Government for something that they should be wanting to do themselves.

Now, you know, there are certain—there are practices that probably should be incentivized over others, but that in and of itself doesn't mean that the State or even the locality should be going to the Federal Government looking for them to fund a particular program when it's the State or the locality that stands to reap the windfall of getting it right.

Mr. CURBELO. Mr. Baxter, do you think that there are activities that we can incentivize through this reauthorization to perhaps encourage more of the programs like the one that saved your life through this reauthorization?

Mr. BAXTER. Probably the most positive thing I can come out with, that is most likely mentor programs, because like I said, when I was young I just simply didn't have anyone to kind of go through it with me or explain what exactly I was feeling. So I would say mentor programs.

Mr. CURBELO. Thank you.

Anyone else have anything they'd like to add?

Judge TESKE. Yes, sir. First of all, if you could go to the 2010 report from the Federal Advisory Committee for Juvenile Justice, there is a chapter in there on the school-to-prison pipeline that I chaired and helped draft that gives specific recommendations.

But as to the reauthorization under DMC, kids of color in some studies are six times more likely to be suspended out of school than their white counterparts for the same offenses. Okay?

So that's low-hanging fruit. If we can incentivize where some way schools can develop, you know, alternatives to suspension, like we in the courts are doing alternatives to detention, you know, we could really, really hit this DMC issue really good. And maybe also take a look at the IDEA, because up to 70 percent of kids with disabilities have been reported being incarcerated in juvenile facilities.

Mr. CURBELO. Thank you, Mr. Chairman.

Chairman KLINE. I thank the gentleman.

Mr. Grothman, you're recognized.

Mr. GROTHMAN. Thank you very much.

A couple of questions. First of all, for Mr. Teske, you mentioned a second ago the role that poverty plays in these problems. It's always been a pet peeve of mine when people talk about poverty, because to me poverty in our society is not—when I think of poverty, it should be, you're old enough to remember, pictures on Time magazine of Biafra or Bangladesh and kids with protruding stomachs.

In our society, poverty means living in a heated and air-conditioned apartment. Recently there was a study that, I think, 85 or 80 percent of the people in poverty have at least two TVs, most have cars, and such.

I'm going to ask you, is the problem kids living in poverty or is the problem kids living with a difficult home life with a welfare

lifestyle? In other words, is it a material problem or is it is a problem of parents providing a horrible role model for their kids?

Judge TESKE. The issue of poverty is extremely complex, and I understand, you know, the foundation of your question and distinguishing Bangladesh and here. And I certainly understand that. Here in the United States, while there are some places, even in Tennessee, the Smoky Mountains, there are folks who are living without. But let's go to the urban area. That's really what we're talking about.

Mr. GROTHMAN. Not necessarily.

Judge TESKE. Yeah, but, you know, in the urban area, you know, when we talk about poverty, you know, we're talking about the gunshots that he heard, okay, the alcoholism, and things that all, that's true. But what's causing that to happen even to the parents, okay, and especially given the fact that, unfortunately, in this country we still have a problem of too many people of color in poverty.

I'm just going to tell from you a white southern judge, okay, which we were pretty good at Jim Crow laws enslaving people of color, okay, I'm just going to tell you right now it's a matter of histrionics. You know, after 300 years of doing that, just because we have a whole lot of freedoms that happen overnight doesn't mean that people can get out of that hole overnight. So that—

Mr. GROTHMAN. You're avoiding my question. Poverty is normally an economically defined term. Is the problem an economic one in which people do not have enough money or are we dealing with more of a social situation in which we have people who by historical and world standards are wildly wealthy?

Judge TESKE. No, both. I'm sorry, sir.

Mr. GROTHMAN. Do you see what I'm saying?

Judge TESKE. It's both. It's both. But It's driven first by money that then leads to all the social issues, as Mr. Baxter is here shaking his head up and down because he personally lived it, you know. And I see it too. I was a parole officer in inner-city Atlanta for 10 years. I dealt with—

Mr. GROTHMAN. Do you believe the problem is a lack of things you can buy with money? Do you really think if somebody is living in a two-bedroom, two-bath, air-conditioned apartment with gadgets and enough food that you're obese, that the problem is a money problem, or is it a role model problem with the parents?

Judge TESKE. Well, I think it's all of that. See, I'm not disagreeing with you. I think it's all of that. The question is, which came first, the chicken or the egg? You know, I mean, you know, it's not only that they're living in a project, okay, but it's where the projects are, with the guns and the drugs and all of that around them that itself creates trauma.

Mr. GROTHMAN. I'll ask the final question of Mr. Cohen.

One of the things that bothers me when you guys generate statistics, and you're all good at generating statistics, is in determining the root causes here, you know, you look at educational achievement, or in poverty, however that's defined, but you don't talk about family background. Could you give us some statistics of family background, you know, the type of family you're with, and

the degree to which that is impacting the people that wind up in the system?

Chairman KLINE. Let me interrupt here. The gentleman's time has expired. If you have that answer, Mr. Cohen, if you could submit it for the record that would be very helpful.

Mr. COHEN. Will do.

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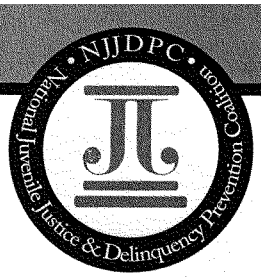
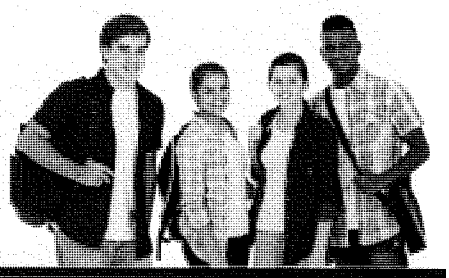


Promoting Safe Communities



Recommendations for the 114th Congress

National Juvenile Justice and Delinquency Prevention Coalition
www.promotesafecommunities.org
2015 - 2016

Organizations for Juvenile Justice & Delinquency Prevention Reform

Juvenile justice systems across the United States are in urgent need of reform, and federal leadership is necessary to advance the pace of change. Despite a steady drop in juvenile incarceration and out-of-home placements over the past decade, there are still far too many young people being locked up and placed away from home who could be handled more effectively in their own communities. Although the number of juvenile arrests accounts for a small portion of the nation's crime and has declined more than 45 percent since 2004[1], each year, police still make more than 600,000 juvenile arrests;[2] juvenile courts handle roughly 1.2 million cases;[3] and 250,000 youth are prosecuted in the adult criminal justice system.[4] On any given night, nearly 60,000 children are placed in secure confinement in state juvenile justice systems, most for non-violent offenses. The vast majority are youth of color.[5] An additional 6,000 children are held in adult jails and prisons[6] and an estimated 100,000 youth are admitted into local adult facilities and prisons each year.[7]

Current juvenile justice policies and practices too often ignore children's age and amenability to rehabilitation, cause long-term collateral consequences, waste taxpayer dollars, and violate our deepest held principles about equal justice under the law and the role of the juvenile justice system. Many state systems exhibit racial and ethnic disparities, pursue discriminatory policies and practices toward lesbian, gay, bisexual, and transgender (LGBT)[8] youth, lack sound mental health and drug treatment services, and apply excessively harsh sanctions for minor and nonviolent adolescent misbehavior. Too often, community safety is jeopardized when states and localities adopt costly and overly punitive approaches that are shown repeatedly to produce the worst outcomes for children, their families, and public safety, including high rates of re-offense and higher severity of offending due to justice system contact.[9] Because the most expensive, hardware-secure, deep end programs are often the least effective, it is fiscally responsible to support juvenile justice reforms that promote keeping youth in smaller programs in their homes or communities whenever possible.[10]

Ineffective and unnecessarily harsh practices and policies continue despite the fact that the United States Supreme Court has held three times in the last few years that children are different from adults. In its 2010 ruling in *Graham v. Florida*, the Court struck down life-without-parole sentences for youth convicted of non-homicide offenses. Two years later, the Court decided in *Miller v. Alabama* that mandatory life-without-parole sentences imposed on youth violate the 8th amendment ban on cruel and unusual punishment. In 2011, the Court ruled in *J.D.B. v. North Carolina* that law enforcement officials must consider the age of a suspect in determining whether Miranda warnings should be issued. These rulings followed the Court's reasoning in *Roper v. Simmons*, which outlawed the death penalty for children in 2005, and relied on growing bodies of adolescent development

research proving the unique characteristics of children – their lessened culpability, their unique vulnerability to peer pressure, their lack of understanding of the consequences of their actions and impulse control, and their particular capacity for rehabilitation – that led the Court to conclude that children are categorically less culpable than adults. As a result, the parameters for how we treat children in the U.S. justice system are forever changed and require this Administration and Congress to reexamine policies and practices that ignore the fundamental differences between children and adults, and provide leadership to states that is consistent with these rulings.

With strong federal leadership, the pace of juvenile justice reforms can be accelerated. Research over the past 25 years has increased our understanding of what works and how to best approach juvenile delinquency and system reform. Many jurisdictions across the country are implementing promising reforms, and there is an increasingly clear path for moving toward community and evidence-based approaches to reducing adolescent crime. In August 2012, led by a bipartisan group of state lawmakers and governors, the National Conference of State Legislatures released a report highlighting successful efforts from around the country.[11] The 114th Congress has the opportunity and responsibility to support effective systems of justice for our youth and should begin by focusing on the following five priority areas:

1) Restore Federal Leadership in Juvenile Justice Policy
2) Support and Prioritize Prevention, Early Intervention, and Diversion Strategies
3) Ensure Safety and Fairness for Court-Involved Youth
4) Remove Youth from the Adult Criminal Justice System
5) Support Youth Reentry

I. Restore Federal Leadership in Juvenile Justice Policy

For more than a decade, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has suffered a drastic depletion of funding and support, and the agency's role in providing national leadership has been greatly diminished.[12] Funding levels for OJJDP declined 83 percent from 1999 to 2010.[13] In addition, the Juvenile Justice and Delinquency Prevention Act (JJDPA), authorizing legislation for OJJDP and the statutory framework for federal investment in state reform, is more than seven years overdue for reauthorization. The National Academy of Sciences recently released a report detailing the important federal role in supporting state juvenile justice systems.[14] Going forward, Congress must provide the clear direction and resources needed to facilitate reform in all States, territories, and the District of Columbia, that embodies the principles of adolescent development and is true to the rehabilitative purpose of the juvenile system. The federal government can and should be a partner with states in building on innovative and evidence-based approaches to create and sustain juvenile systems that cost less in terms of both human suffering and financing, enhance public safety, prevent delinquency and court contact,, and give court-involved youth the best possible opportunities to live safe, healthy, and fulfilling lives.

Restore and Increase Funding for the JJDPA and Other Research-Driven Reforms
Successful support of state efforts to reduce juvenile delinquency and protect youth in the system requires adequate federal assistance. Despite a universally recognized need to further reduce delinquency and improve juvenile justice systems, federal appropriations for key juvenile justice programs have declined over the last decade. Federal funding available to support implementation of the JJDPA and other state and local reforms has steadily dropped by more than half since the law was last reauthorized in 2002, and the appropriations caps contained in the Budget Control Act of 2011 have only accelerated the scope of the cuts.

ACT4JJ Juvenile Justice Federal Funding Chart

	JJDPA Title II	JJDPA Title V	JABG	Mentoring	Other	Total
FY02	$88.8	$94.3	$249.5	$16	$91.5	$546.9
FY03	$83.3	$46.1	$188.8	$15.9	$110.5	$451.4
FY04	$83.2	$79.2	$59.4	0	$2.5	$306.7
FY05	$83.3	$79.4	$54.6	$14.9	$9.9	$346.5
FY06	$79.2	$64.4	$49.5	$9.9	$30	$338.7
FY07	$79.2	$64.4	$49.5	$9.9	$30	$338.7
FY08	$74.3	$61.1	$51.7	$70	$32	$383.6
FY09	$75	$62	$55	$80	$20	$374.7
FY10	$75	$65	$55	$100	$37.5	$423.5
FY11	$62.3	$54	$45.7	$83	$31.2	$276
FY12	$40	$20	$30	$78	$94.5	$262.5
FY13	$44	$20	$25	$90	$100.5	$279.5
FY14	$55.5	$15	0	$85.5	$88	$244
FY15	$55.5	$15*	$0	$90	$91	$251.5
% Difference since last JJDPA reauth	-37.5%	-84%	-100%	-462.5%	0%	-54%

All sums reported are in millions.
** Total is earmarked as follows: $5 million for tribal youth, $3 million for gang and youth violence education and prevention, $6 million for community-based violence prevention initiatives, and $1 million for the National Forum on Youth Violence Prevention.*

Congress has the unique opportunity to reverse this trend and promote and support evidence-based practices and policies that prevent delinquency, reduce recidivism, promote positive youth development, keep children and communities safe and save money in the long-run.

We support the Administration's FY 2016 budget, which proposes $142 million for three critical juvenile justice programs: $70 million for Title II of the JJDPA; $42 million with no earmarks for Title V of the JJDPA; and $30 million for the Juvenile Accountability Block Grant

(JABG). Given the critical nature of this modest federal investment, we continue to be disappointed that Congress has repeatedly recommended cuts to Title II funds, earmarked limited Title V funding for other purposes and eliminated JABG funding. The Title II, Part B state formula grants are particularly critical as they can be used for a wide variety of prevention and intervention activities in the states in addition to helping states comply with the core protections of the JJDPA. Finally, we support the Administration's proposed new investment in the SMART on Juvenile Justice Initiative, which incentivizes states to foster better outcomes for system-involved youth. This new program offers additional dollars to help states invest in alternatives to incarceration and reduce the racial and ethnic disparities in the system and we encourage Congress to fund it.

While we recognize the challenges that come with the discretionary spending caps and the sequestration provision contained in the Budget Control Act of 2011, we also know how essential federal investments in state juvenile justice efforts are for youth and community safety. In these tight economic times, it is even more critical to invest scarce federal resources wisely. These are relatively modest, targeted federal investments in state and local juvenile justice programs that can pay huge dividends in the form of public safety, reduced recidivism, and better outcomes for youth, all of which would result in cost savings. Congress should restore juvenile justice funding to its FY 2002 levels, adjusted for inflation, and increase these investments over the next five years.

Reauthorize and Strengthen the JJDPA

Reauthorization of the JJDPA is currently more than seven years overdue. Congress can and should use the reauthorization of the JJDPA as an opportunity to strengthen accountability, restore federal investment in juvenile justice, help states protect public safety, hold delinquent youth accountable, protect our children from harm, and provide rehabilitation services to prevent future delinquency. This landmark law was last reauthorized in 2002, but few substantive changes were made at that time. Since the last major reauthorization of the JJDPA nearly two decades ago, much more is known about what works and does not work to keep our communities safe and put youth on a better path.

The most recent, bipartisan proposal to reauthorize the JJDPA was introduced in 2014,[15] and builds on legislation originally reported out of the Senate Judiciary Committee in the 111th Congress.[16] This latest proposal includes provisions to strengthen the law's core protections by reducing the placement of youth in adult jails pre-trial, providing more structure to the law's requirement to decrease racial and ethnic disparities, and phasing out exceptions that allow the detention of youth who have engaged in status offense behaviors. The bill also promotes the use of alternatives to incarceration, improves conditions and educational services for incarcerated youth, and increases accountability.

Congress should reintroduce this legislation, hold hearings, and pass a final JJDPA reauthorization bill that will:

- Extend the Jail Removal and Sight and Sound separation core protections to all youth under the age of 18 held pretrial, whether charged in juvenile or adult court.
- Codify current state flexibility for housing youth convicted in adult court in juvenile facilities rather than adult prisons by modifying the definition of "adult inmate."

- Strengthen the Deinstitutionalization of Status Offenders (DSO) core protection, which prohibits the locked detention of status offenders, by removing the valid court order (VCO) and Interstate Compact exceptions.
- Strengthen the Disproportionate Minority Contact (DMC) core protection by requiring States to take concrete, measurable steps to reduce racial and ethnic disparities in the juvenile justice system.
- Provide safe and humane conditions of confinement for youth in state or local custody by prohibiting use of JJDPA funds for dangerous practices, encouraging states to adopt best practices and standards to eliminate dangerous practices, and clarifying that isolation of longer than a few hours is a dangerous practice.
- Provide a research-based continuum of mental health and substance abuse services to meet unmet needs of court-involved youth and their families, including diversion and re-entry services.
- Ensure that programs and practices designed to address the needs of system-involved youth are both evidence-based and trauma-informed and reflect adolescent development principles.
- Ensure that confined youth receive high quality education aligned with state and local curricula, and that they receive supports for successful re-entry to school.
- Assist states in compliance with the JJDPA by establishing incentive grants to encourage states to adopt evidence-based and/or promising practices that improve outcomes for youth and their communities. For states that are deemed to be out of compliance with any of the core protections, Congress should require any JJDPA funds withheld for non-compliance to be set aside and made available to those states as improvement grants to help them with those particular protections.
- Enhance the partnership between states and OJJDP by expanding training, technical assistance, research and evaluation. Of particular importance is training to enhance the capacity of state and local courts, judges, and related judicial personnel to more effectively improve the lives of system-involved children and those at risk of becoming involved in the juvenile court system.
- Enhance the partnership between OJJDP and Congress by encouraging transparency, timeliness, public notice, and communication.
- Incentivize juvenile justice systems to ensure that all policies, practices, and programs recognize the unique needs and vulnerabilities of girls.
- Incentivize states to reduce the number of child welfare involved youth who cross over into the juvenile justice system by implementing best practices for cross-system communication and collaboration between child welfare agencies and juvenile justice systems.
- Update provisions to ensure that all policies and practices protect youth from discrimination based on actual or perceived sexual orientation, gender identity, and gender expression, and incentivize juvenile justice systems to increase cultural competency to serve LGBT youth.

Reauthorize the Juvenile Accountability Block Grant (JABG)

The JABG program, authorized under the Omnibus Crime Control and Safe Streets Act of 2002, is designed to help reduce juvenile offending by supporting accountability-based programs that focus on offenders and state and local juvenile justice systems. The basic

premise underlying the JABG program is that both the youth and the juvenile justice system must be held accountable. In implementing the program, OJJDP works to support state efforts that reduce juvenile offending through both offender-focused and system-focused activities that promote accountability. Funding for JABG was zeroed out in FY 2015. We encourage Congress to reauthorize and restore funding for this important grant program.

Set and meet national benchmarks to prevent and reduce youth violence and delinquency, and to increase healing and well-being

The report of the Attorney General's National Task Force on Children Exposed to Violence, *Defending Childhood*, released in December 2012, provided a series of comprehensive recommendations to help prevent and reduce child victimization from all forms of violence. The recommendations are designed to help children and youth heal from violence by elevating federal leadership, launching a national initiative, investing in national data collection, and funding trauma-informed services for children and youth. Congress should work with the Administration to make sure the report's recommendations are realized.

II. Support Prevention, Early Intervention, and Diversion Strategies

Decades of empirical studies of juvenile delinquency by scholars in the fields of criminology, child psychology, mental health, substance abuse, economics, and public health reveal that public dollars spent on effective prevention and early intervention programs reduce delinquency and strengthen families and communities. Research also shows that broadening prosecutorial powers, stiffening criminal penalties, and incarcerating more young people do not work to lower delinquency or prevent reoffending.[17] Similarly, public opinion polls find that taxpayers overwhelmingly favor paying for prevention, education, and rehabilitation over prosecution and incarceration of juveniles who are adjudicated delinquent.[18]

Recommendations for the 114th Congress

Pass the Youth PROMISE Act

Recognizing the importance and cost effectiveness of prevention and early intervention strategies in helping at-risk youth stay out of the school-to-prison pipeline, and reducing incarceration and violence, Congress should support the bipartisan Youth Prison Reduction through Opportunity, Mentoring, Support and Education (Youth PROMISE) Act. The Youth PROMISE Act aims to reduce violence in communities that have a high concentration of youth at risk of school disengagement, social disconnection, and/or delinquent behavior by leveraging federal funds at the community level. The Youth PROMISE Act would enable inclusive groups of local stakeholders to determine the needs of their own communities and to address those needs with a suite of accountable, evidence based programs. These empirically based prevention and intervention strategies, consisting of programs such as restorative practices, family strengthening programs, academic and school supports, positive youth development, and other evidence-based interventions such as those

identified in Blueprints for Violence Prevention,[19] are proven to reduce incarceration and recidivism, and to improve life outcomes for youth. The Youth PROMISE Act creates a model for preventing violence and improving life outcomes that is locally controlled, accountable, and cost saving. Congress should pass the Youth PROMISE Act without delay.

Eliminate the Valid Court Order (VCO) Exception from the JJDPA

While the JJDPA currently prohibits detaining youth for status offenses, like truancy and running away from home, there is a valid court order (VCO) exception to the Deinstitutionalization of Status Offenders (DSO) core requirement.[20] The VCO exception allows judges and other court personnel to detain youth adjudicated as status offenders if they violate a valid court order or a direct order from the court, such as "stop running away from home" or "attend school regularly."[21] Detaining and incarcerating non-delinquent, youth who have engaged in status offense behaviors is counter-productive: it is more costly and less effective than home and community-based responses. It interrupts education, pulls children away from family and community, and stigmatizes youth.[22] Research clearly shows that once detained, youth are also more likely to commit unlawful acts, potentially leading to "deeper" involvement in the system.[23]

Girls are disproportionally affected by the VCO exception – they are more likely to be arrested for status offenses and to receive more severe punishment than boys.[24] Many girls, already traumatized before entering the justice system, are re-traumatized by violent and abusive experiences in detention.[25] While there is no data specific to LGBT youth and the use of the VCO exception, other research has shown that LGBT and gender non-conforming youth are twice as likely to be held in secure detention for status offenses such as truancy, warrants, probation violations, running away, and prostitution.[26] In recognition of these and other dangers that youth face when they are incarcerated for status offense behaviors, nearly half of all states have already stopped using the VCO exception.[27] Although judges, court personnel, and advocates are working hard to effectively address the VCO exception on the state level, its mere existence in the JJDPA undermines the DSO core requirement and harms youth. Last Congress, we were pleased that several proposals were introduced to eliminate or phase out use of the VCO exception and we call on Congress to pass a bill this session that would eliminate the exception.

Reauthorize and Increase Investment in the Runaway and Homeless Youth Act (RHYA)

The RHYA, originally passed as part of the JJDPA and last reauthorized in 2008,[28] provides vital housing and services to runaway, homeless, and disconnected youth. There is a two-way relationship between youth homelessness and the justice system. Youth involved with the criminal justice system are more likely to report unstable housing and homeless youth report a high level of involvement with the justice system. One study of four U.S. cities found that 20 to 30 percent of homeless young adults had been arrested. Much of this is due to arrests that stem from activities associated with daily survival such as panhandling, loitering, or sleeping outdoors. In addition, homeless youth on the streets are often victims of commercial sexual exploitation and labor trafficking. Up to 77 percent of sex trafficked youth reported previously running away from home.

We support the Administration's FY 2016 budget, which proposed $123 million for RHYA programs which fund critical community-based programs that prevent juvenile justice system involvement and provide alternative and reentry placements for youth in the juvenile justice system. The modest investment has laid the foundation for a national system of services for our most vulnerable young people, including: emergency shelters, family reunification work when safe, aftercare, outreach, education and employment, health care, behavioral health, transitional housing, and independent housing options. These services help to prevent youth from involvement in the criminal justice system, trafficking and commercial exploitation, and chronic homelessness, and to ensure successful outcomes such as a safe exit from homelessness, family reunification, and/or establishment of permanent connections in their communities. We call on Congress to reauthorize this important law, increase funding for its three pillar programs (Street Outreach, Basic Centers and Transitional Living), and provide additional resources to address the needs of exploited and trafficked children.

Support Community-Based Alternatives to Reduce Over-Reliance on Incarceration of Youth

Taxpayers spend thousands of dollars annually – and in some places hundreds of thousands of dollars a year—to confine a young person.[29] The most recent data show that 62 percent of youth committed and confined in 2011 were there for a nonviolent, non-person offense.[30] Often this money could be better spent on less costly, more effective alternatives. States as diverse as New York, Illinois, California, Arkansas, Ohio, Texas, and the District of Columbia have undertaken initiatives to reduce their over-reliance on wasteful, unnecessary, and often dangerous incarceration of children.[31] Instead these states are investing in more effective non-residential, community-based approaches that address important public safety concerns and the well-being of youth and their families. We know that programs and services that institutions provide can almost always be done better in the community, often for less money and with better outcomes for youth and public safety.[32] Federal investments like the Administration's SMART on Juvenile Justice Initiative can help support efforts like these and others across the country.

We support the continuation of federal support for efforts like the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) to reduce the unnecessary use of detention while maintaining public safety, and its new deep end work to reduce youth incarceration in state and private residential facilities. Congress should invest in a plan to cut youth incarceration and out-of-home placements in half by the end of 2019. To help achieve this goal, we encourage Congress to focus federal support on community-based programs that provide intensive, individualized wraparound and advocacy services to the highest risk youth most likely to be incarcerated.

Improve School Safety and Reduce Exclusionary Disciplinary Practices

Academic success plays a crucial role in preventing delinquent behavior and promoting positive outcomes for youth and safer communities. Youth who drop out or are pushed out of school have fewer opportunities for gainful employment and are more likely to commit delinquent acts than youth who remain in school.

Over the past two decades, expanded zero tolerance school disciplinary policies have too often led to suspensions, expulsions and push-out of students for a broad range of student behaviors that are not violent or a threat to school safety, but rather typical of normal adolescent development. Beginning in the 1990s, schools across the nation created mandatory punishments for a long list of student behaviors, many of which are now required to be reported to the police. For example, in Pennsylvania, school-based arrests nearly tripled between 1999 and 2007, yet nearly all school-based referrals were misdemeanor offenses or non-delinquent.[33] The result of zero tolerance has too often been the disconnection from school and criminalization of youth - particularly youth of color, LGBT youth, and youth with disabilities - for behaviors and infractions that can and should be addressed within schools, without pushing youth out of school or involving law enforcement and justice system referrals. One recent report found that in addition to the fact that boys and girls of color were subject to larger achievement gaps and harsher forms of discipline than their white counterparts, the racial disparity between girls was more pronounced than the disparity between boys.[34] A wave of recent school discipline reforms, which move away from zero tolerance and toward more supportive responses and services, underscore the ineffectiveness of a punitive, exclusionary approach toward students.[35]

Additionally, excessive reliance on law enforcement in schools to maintain discipline can send youth into the juvenile and criminal justice systems for matters more appropriately handled by school personnel. When law enforcement officers are present in schools, there is often an increase in arrests for typical adolescent, nonviolent behavior, rather than for incidents that threaten the safety of other students or school personnel.[36] Without strong leadership and rules about the role of law enforcement, police are sometimes relied on to enforce rules that should be managed by school personnel, such as fistfights without injury, graffiti, disorderly conduct, and similar behaviors. Sending youth into the justice system for these minor offenses can result in a lifetime of negative collateral consequences, including significant barriers to education and employment.

In many school districts, an arrest or referral to the justice system also means suspension and expulsion from school and blocked reentry into school. Arrests, suspensions, expulsions, and barriers to school re-entry cut students off from positive interactions with adults in supportive settings such as school and cause a variety of negative life outcomes. As the presence of law enforcement and school resource officers (SROs) in schools has increased, arrests and referrals to the juvenile justice system from schools, generally, have also increased.[37] The presence of law enforcement in schools has effects that transform the school from an academic environment to a site of criminal law enforcement. Issues that might otherwise be seen as mental health or social problems become policing matters once an officer is stationed in a school. This comes at the expense of students' rights and their education. Youth of color are especially vulnerable to over-policing in schools, which increase both the racial-academic divide and racially skewed arrest rates.[38] Schools should instead be encouraged to invest more resources in school counselors, school social workers, and other mental health clinicians who can strengthen school-wide positive behavioral interventions, identify and treat problems that might contribute to youth violence, and improve coordination with community mental health and prevention services. Where schools are engaging SROs, school districts and law enforcement agencies should establish partnerships through Memorandums of Understanding that clearly articulate the role of the

law enforcement officers in schools, require adolescent development and mental health awareness training, and establish explicit protocols for interactions with students and referral to services where necessary.

Congress should advance legislation that effectively addresses the school-to-prison pipeline and the disciplinary policies and practices that can push students out of school and into the justice system. We also encourage Congress to reject proposals that would increase law enforcement presence in schools and/or unnecessarily and inappropriately increase the number of youth who come in contact with the justice system.

Improve Access to and Quality of Mental Health and Substance Abuse Services

Congress should advance proposals to help identify behavioral health (i.e. mental health and substance abuse disorders) needs early, including exposure to adverse childhood experiences, mental illness and substance abuse. Congress should also expand access to innovative, culturally competent, and evidence-based services and treatment, and to improve the quality of those services. Estimates range, but some studies have shown that as many as 70 percent of youth in the juvenile justice system have a diagnosable mental health disorder; 60 percent may also meet the criteria for a substance use disorder; and 27 percent experience disorders so severe that their ability to function is significantly impaired.[39] Juvenile justice agencies are often ill-equipped to manage the mental health and substance abuse needs of youth effectively. The agencies themselves identify the following as barriers to their success: insufficient resources, inadequate administrative capacity, lack of appropriate staffing, and lack of training for staff.[40]

Congress should create incentives for States to reduce the inappropriate detention of youth with behavioral health needs by: 1) identifying vulnerable youth through consistent use of standardized screening and assessments; 2) diverting youth with mental health or substance abuse needs from detention and incarceration into home- and community-based placements and residential treatment where appropriate; and 3) making training and technical assistance available for law enforcement officers, judges, probation officers, and other decision makers. Congress should also create incentives to 1) prohibit the use of isolation/solitary confinement of youth with mental health disorders in both juvenile and adult facilities; 2) eliminate gaps in medical coverage for incarcerated youth through policies such as requiring states to suspend rather than terminate Medicaid coverage when youth enter juvenile facilities; and 3) require individualized discharge plans to link youth to appropriate services immediately upon reentry, including mental health and substance abuse services and supports for the youth and his/her family.

We also encourage Congress to fund effective implementation of the Mental Health and Criminal Justice Collaboration grant.[41] This law, administered by the Department of Justice, authorizes grants to assist with diversion, treatment, and transition services for youth and adults with mental illness who come in contact with law enforcement.

Address the Specific Needs of Girls

Girls are the fastest growing segment of the juvenile justice population and their pathway into the system is often very different from that of boys. For girls, physical, psychological, and sexual abuse is an overwhelming predictor for juvenile justice involvement. Once in the

system, girls often fail to receive the services and support needed to heal from trauma and address destructive behaviors, and are instead re-traumatized and derailed from educational achievement.[42]

In addition to eliminating the VCO exception from the JJDPA, we recommend that Congress allocate $10 million for the National Girls Initiative to provide specific, targeted support for state efforts to implement best practices with respect to at-risk and system-involved girls. This could be coordinated with any girls' work already taking place as part of the state's 3-year plan required by Title II of the JJDPA. We also encourage Congress to amend Title V of the JJDPA to include gender-responsive programming as a priority area for states and localities applying for funding under this title. Title V focuses on reducing risks and enhancing protective factors to prevent at-risk youth from entering the juvenile justice system and to intervene with first-time, non-serious offenders to keep them out of the system. Because girls often enter the system for non-violent, status offenses, directing resources for gender-specific prevention and early intervention would be impactful.

Some girls entering the juvenile justice system, even on low-level status offenses, are victims of domestic child sex trafficking.[43] Congress should require state juvenile justice systems to screen children at intake to determine if they are victims of commercial sexual exploitation and trafficking, and incentivize states to divert these children away from the juvenile justice system and towards the child welfare system or appropriate community-based interventions. Congress should also require states to collect and report data on the number of victims identified within their juvenile facilities.

Girls enter the juvenile justice system with pre-existing trauma. Congress should require states to collect data on the conditions of confinement that may exacerbate girls' trauma including use of restraints, strip searches, and solitary confinement or 'protective custody.'

Finally, Congress should ban shackling of pregnant girls. Use of restraints during pregnancy, labor, delivery, and post-partum is a health risk. Congress should require states to document the number of pregnant and parenting youth detained, incarcerated, or in out-of-home placements in the justice system, as well as the frequency of the use of restraints on them. The Department of Justice should compile the results in a publicly available report to Congress.

Promote Cultural Competence Regarding LGBT Youth

Congress should pass federal protections against discrimination in all settings based on actual or perceived sexual orientation and gender identity and create incentives for states to appropriately and effectively respond to LGBT youth involved in the justice system. Recent research shows that up to 20 percent of youth in juvenile detention identify as lesbian, gay, bisexual or gender non-conforming. Eighty-five percent of those youth are youth of color.[44]

In their homes, schools, and communities, LGBT youth face challenges related to their sexual orientation and/or gender identity that can increase their risk of coming into contact with the juvenile justice system. Many LGBT youth enter the juvenile justice system as a direct result of family rejection. In addition, a recent study in *Pediatrics* found that

adolescents who self-identified as LGB were about 50 percent more likely to be stopped by the police than other teenagers. In particular, girls who identified themselves as lesbian or bisexual reported about twice as many arrests and convictions as other girls who had engaged in similar behavior.[45] Congress should create incentives for States to reduce the inappropriate detention of LGBT youth and address decision makers' lack of understanding of this population by: 1) ensuring that JJDPA State Advisory Groups (SAGs) include experts on LGBT youth; 2) increasing research and information dissemination on this topic; 3) making training and technical assistance available for juvenile justice agencies, law enforcement officers, judges, probation officers, and other decision makers; and 4) requiring all programs funded under JJDPA and other OJJDP incentive grants to adopt policies prohibiting discrimination based on actual or perceived sexual orientation, gender identity, and gender conformance.

III. Ensure Safety and Fairness for Court-Involved Youth

Far too often, incarcerated youth endure abusive conditions. In a recent study by the Bureau of Justice Statistics (BJS), a shocking one in ten youth in juvenile facilities reported experiencing sexual abuse at their current facility in the past year alone, with more than one in five non-heterosexual youth reporting such abuse.[46] An earlier BJS survey, which focused solely on sexual violence reports filed with prison officials, reported that young inmates were also more likely to be victimized when in adult facilities.[47] Reports of abuses in institutions in Idaho,[48] Mississippi,[49] Ohio,[50] New Jersey,[51] Louisiana,[52] and other states demonstrate the importance of using federal laws to ensure the safety of children in custody. Abuses have included use of pepper spray, sexual assaults by staff, hog-tying, shackling, and isolation. Youth who commit crimes must be held accountable, but no court disposition, regardless of the offense, should ever include abuse, mental health deterioration, or death in a juvenile facility, adult jail, or prison.

In addition, youth of color continue to be significantly over-represented in the juvenile justice system at every stage of the process from arrest to secure detention and confinement. In 2011, African-American youth were five times as likely to be detained as White youth; Native American youth were three times as likely and Latino youth were more than twice as likely.[53] Research demonstrates that youth of color are more frequently transferred to adult court than White youth. Moreover, youth of color are treated more harshly than White youth, even when charged with the same category of offense.[54]

Recommendations for the 114th Congress

Strengthen JJDPA Jail Removal Core Protection

The original intent of the JJDPA was to recognize the unique needs of youth in the criminal justice system and establish a separate system to specifically address these needs. One of these unique needs for youth is protection from the dangers of adult jails and lockups. The jail removal core protection currently protects youth who are under the jurisdiction of the juvenile justice system by prohibiting these youth from being held in adult jails and lockups except in very limited circumstances, such as while waiting for transport to appropriate

juvenile facilities. In these limited circumstances where youth are placed in adult jails and lock-ups, the sight and sound core protection limits the contact these youth have with adult inmates. Congress should pass a JJDPA reauthorization that would extend the jail removal and sight and sound protections to all youth under age 18, regardless of whether they are awaiting trial in juvenile or adult court. In the limited exceptions allowed under the JJDPA where youth can be held in adult facilities, they should have no sight or sound contact with adult inmates. Several states, such as Colorado, Indiana, and Oregon, have led the way in removing youth charged as adults from adult jails and prisons.[55]

Strengthen the Disproportionate Minority Contact (DMC) Core Protection

Currently, states must "address" racial and ethnic disparities within their juvenile justice systems. This vague requirement has left state and local officials without clear guidance on how to reduce racial and ethnic disparities. Jurisdictions need to approach this work with focused, informed, and data-driven strategies. Through JJDPA reauthorization, Congress should improve the DMC core protection to ensure States: 1) establish coordinating bodies to oversee efforts to reduce disparities; 2) identify key decision points in the system and the criteria by which decisions are made; 3) create systems to collect local data at every point of contact youth have with the juvenile justice system (disaggregated by descriptors such as race, ethnicity, and offense) to identify where disparities exist and the causes of those disparities; 4) develop and implement plans to address disparities that include measurable objectives for change; 5) evaluate progress toward reducing disparities; and 6) publicly report findings on an annual basis.

Ensure Fair Treatment of Youth With Disabilities

Students with disabilities protected by the Individuals with Disabilities Education Act (IDEA) represent a quarter of students arrested and referred to law enforcement, even though they are only 12 percent of the overall student population. With the exception of Latino and Asian American students, more than one out of four boys of color with disabilities served by IDEA and nearly one in five girls of color with disabilities receives an out-of-school suspension.[56] Congress should fund a Protection and Advocacy Program for juvenile justice involved youth in order to ensure that youth with disabilities are not unfairly and disproportionately placed into the juvenile justice system due to unmet needs related to their disabilities, and that they are treated fairly and humanely when they must be placed out of the home.

Support Family Engagement

Recognizing the integral role families can play in holding facilities accountable for how they care for and supervise youth, and in assisting in a young person's rehabilitation and successful return to the community, Congress can do more to support families and keep them connected with system-involved youth. We call on Congress to authorize the establishment of an independent National Technical Assistance Center on Family Engagement to provide support to state and local justice and child-serving agencies interested in starting or expanding family engagement programs. Congress should also create incentives for state and regional Parental Information Resource Centers to integrate support services for families involved in the justice system. These centers would provide information to families and should be co-located or coordinated with existing parent centers already funded by other child-serving agencies. Finally, we recommend that

Congress explicitly call for the inclusion of family members on JJDPA State Advisory Groups (SAGs).

Improve Conditions of Confinement for Youth in Juvenile Facilities

To address the recent and well-documented abuses in juvenile facilities nationwide, juvenile justice facility staff needs to be trained on effective behavior-management techniques to respond to dangerous or threatening situations. Staffing and programming in facilities must be sufficient to reduce the likelihood of youth misconduct. Activities that create an unreasonable risk of physical injury, pain or psychological harm to juveniles should not be used in juvenile facilities. These activities include using chemical agents, fixed restraints, and psychotropic medications for purposes of coercion, punishment or convenience of staff.

Congress should disallow the use of federal funds for the most dangerous practices, which create an unreasonable risk of physical injury, pain, or psychological harm to youth, such as solitary confinement. Congress should also fund training and technical assistance to help jurisdictions reduce the unnecessary use of isolation and restraint, require increased collection of data on use of isolation and restraint, and allow states to use JJDPA funds to develop independent monitoring bodies (e.g., creating ombudsmen programs, developing community monitoring panels, or partnering with Protection and Advocacy organizations) and other programs to improve conditions of confinement, including reducing unnecessary isolation and use of restraints.[57]

Approve Restrictions on Room Confinement

Room confinement —also known as solitary confinement, isolation, segregation, seclusion, or separation —creates severe risks of harm to the mental and physical health of young people. We call on Congress to pass legislation, like the pending Record Expungement Designed to Enhance Employment (REDEEM) Act, which includes a provision to ban the use of room confinement for discipline, punishment, retaliation, staffing shortages, administrative convenience, or any reason other than as a temporary response to behavior that poses a serious and immediate risk of physical harm to the young person or others. Given the widely recognized harms, such legislation should prohibit such inappropriate uses of room confinement for youth both pre- and post-adjudication. This prohibition should also be reflected in the JJDPA, which should prohibit the use of room confinement except in situations of serious and immediate risk of harm, in which case such use should be limited to no more than three hours.

Additionally, youth placed in adult jails and prisons are often times placed in solitary confinement "for their own protection." However, adult jails and prisons are ill-equipped to properly care for, or protect, youth within their walls. Many facilities simply place youth in cells alone for up to 23 hours a day. Recognizing the inherent harms of placing this vulnerable population in solitary confinement, the Justice Department's regulations implementing the Prison Rape Elimination Act (PREA), include a Youthful Inmate Standard requiring adult facilities to limit this practice while also requiring sight and sound separation from the adult population. Congress should make clear through legislation that this requirement applies to all federal, state and local adult jails and prisons.

Ensure Fair Treatment and Adequate Representation of System-Involved Youth
Congress should allocate more support to expand the Department of Justice's efforts to ensure that states are meeting constitutional requirements to provide access to quality legal counsel for children in the justice system.

Encourage States to Keep Youth off Sex Offender Registries
The Sex Offender Registration and Notification Act (SORNA), as currently applied to youth, contradicts research that shows that youth who commit sex-based offenses have significantly lower recidivism rates than adults and that sex offender registration for youth has no impact on sexual offense recidivism or any deterrence effect, nor has it been demonstrated to improve public safety.[58] Youth are also exceedingly amenable to treatment.[59] SORNA has great potential to disrupt families and communities across the nation because public registration and notification stigmatizes the youth and their family, including the parents and other children in the home. Finally, SORNA has a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. Instead of seeking appropriate treatment for their child, parents may be inclined to hide their child's behavior when they learn that their child may be required to register for life as a sex offender. Congress should amend the SORNA Title of the Adam Walsh Child Protection and Safety Act of 2006 to exclude adjudicated youth from sex offender registries and community notification practices.

IV. Remove Youth from the Adult Criminal Justice System

Across the United States, an estimated 250,000 youth are tried, sentenced, or incarcerated in the adult criminal justice system every year.[60] Trying youth as adults is bad for public safety and for youth. Youth prosecuted in the adult criminal justice system are more likely to reoffend than similarly situated youth who are retained in the juvenile system, and these offenses tend to be more violent.

In December 2012, after a year-long exhaustive study, the Attorney General's Task Force on Children Exposed to Violence issued comprehensive recommendations to the Attorney General on reducing children's exposure to violence, including a recommendation to abandon policies that prosecute, incarcerate, or sentence youth under 18 in adult criminal court. According to the report, "We should stop treating juvenile offenders as if they were adults, prosecuting them in adult courts, incarcerating them as adults, and sentencing them to harsh punishments that ignore their capacity to grow."[61]

The Task Force's recommendation reflects the policies of major professional associations representing juvenile and adult criminal justice system stakeholders such as the American Correctional Association, the American Jail Association, the Council of Juvenile Correctional Administrators, the National Partnership for Juvenile Services, and the National Association of Counties that highlight the harm youth are subjected to in the adult criminal justice system. The Task Force's recommendation is consistent with the latest state law reforms according to an August 2012 report, *Trends in Juvenile Justice State Legislation 2001 – 2011*,

released by the National Conference of State Legislatures (NCSL), showing that numerous states have undertaken policy reforms in the last decade to remove youth from the adult criminal justice system and from adult jails and prisons.

Additionally, youth in the adult system are also at great risk of sexual abuse and suicide when housed in adult jails and prisons.[62] Youth are also often placed in isolation and locked down 23 hours a day in small cells with no natural light. These conditions cause anxiety and paranoia, exacerbate existing mental disorders, and heighten the risk of suicide. The ACLU and Human Rights Watch issued a report, *Growing Up Locked Down*, which estimates that nearly 100,000 youth are in adult jails or prisons annually.[63] In addition, youth housed in adult jails are 36 times more likely to commit suicide than are youth housed in juvenile detention facilities.[64]

Youth tried as adults suffer lifelong consequences from their experience with adult court.[65] Youth are often denied employment and educational opportunities,[66] which significantly restricts their life chances. Youth incarcerated after being tried in adult court are more likely to be rearrested and rearrested sooner.[67] Many of these youth will not have been provided with the education and services they need to make a successful transition to productive adulthood, and they will have an adult record, which will make access to jobs or educational opportunities incredibly difficult. Congress should provide strong leadership for states to reduce, and eventually eliminate, their harmful and dangerous reliance on trying youth as adults.

Finally, in light of *Roper, Graham, Miller*, and *J.D.B.*, youth justice policies that ignore the differences between youth and adults must be reexamined. In the wake of these Supreme Court decisions, 11 states have eliminated the use of life without parole or release sentences for children, including Texas, West Virginia, Wyoming, Montana, Kansas, Kentucky, Alaska, Hawaii, Delaware, Massachusetts, and Colorado. The American Bar Association has called on states and the federal government to abolish life without parole sentences and give child offenders a meaningful opportunity to obtain release at a reasonable point during their incarceration. The United States has also been urged by the U.N. Committee Against Torture to eliminate the practice of sentencing its children to die in prison, as it stands in direct contradiction to Article 37 of the U.N. Convention on the Rights of the Child, which every nation-state has ratified except the United States and South Sudan. U.S. law continues to remain in violation of both the *Graham* and *Miller* Supreme Court decisions.

Recommendations for the 114th Congress

Extend JJDPA Protections to Keep Youth Out of Adult Facilities

Congress should amend the JJDPA to extend the Jail Removal and Sight and Sound protections of the Act to all youth, including those awaiting trial in juvenile or adult court. In the limited exceptions allowed under the JJDPA where youth can be held in adult facilities, they should have no sight or sound contact with adult inmates. Congress should also revise the definition of an "adult inmate" to codify the recent guidance issued by OJJDP. This guidance recommends excluding youth who, at the time of the offense, were younger than

age 18 and who have not yet reached the allowable age to be held at a juvenile facility under state law.

Raise the Age of Juvenile Court Jurisdiction

In accordance with the recommendations of the Federal Advisory Council on Juvenile Justice and the Federal Coordinating Council on Juvenile Justice and Delinquency Prevention, Congress should encourage states that have not set the age of adulthood at 18 at the time of the commission of a crime to do so, and provide financial incentives to achieve this policy goal. Studies of youth brain development have found that the decision-making functions of the brain do not fully develop until much later than was previously believed to be the case. Despite this, some states still automatically try 16 and 17-year-olds as adults, simply because of their age. The recently introduced REDEEM Act incentivizes states to establish age 18 as a floor for original jurisdiction in adult criminal courts. We call on Congress to approve the REDEEM Act provisions on the age of adult court jurisdiction and to encourage States to raise the extended age of juvenile court jurisdiction to at least the age of 21.

Help States Implement the Prison Rape Elimination Act (PREA) by Removing Youth from Adult Facilities

In light of the overwhelming evidence that youth cannot be kept safe in adult facilities and the research demonstrating that keeping youth in adult facilities is harmful to the youth and to public safety, all efforts should be made to remove youth from adult facilities. To that end, the Prison Rape Elimination Act of 2003 (PREA) regulations must be fully implemented in all the states, and should serve as a floor, not a ceiling, especially with respect to youth in the adult system. The PREA regulations include the Youthful Inmate Standard which requires sight and sound separation of youth from adults in adult facilities, and restricts the use of isolation and solitary confinement of youth. The smartest and most cost effective way to achieve compliance with this standard is by removing youth from adult jails and prisons.

Adult facilities are simply not equipped to safely detain youth and the removal of all youth from adult jails and prisons should be touted as a best practice in implementing the law's regulations. Congress must adequately fund PREA efforts to ensure nationwide compliance. Previous funding aided in the development of the critical PREA Resource Center and training of hundreds of auditors. The grant opportunities offered through the Bureau of Justice Assistance are paramount to ending prison abuse in this nation and to date, dozens of jurisdictions have benefited. We encourage Congress to exercise its oversight authority to make certain that states' implementation of the law is consistent with its intent to keep individuals in custody safe from sexual victimization and related harms.

Eliminate Life Without the Possibility of Parole or Release Sentences for Children Through the Use of a Judicial Review Process

Bring the United States into compliance with both the *Graham* and *Miller* Supreme Court decisions, as well as Article 37 of the Convention on the Rights of the Child (CRC), by following the American Bar Association's recommendation and eliminating life without the possibility of release as a sentencing option for children. Legislative reform should create a judicial review mechanism that allows judges to periodically evaluate the sentence an

individual was given as a child after no more than 15 years into the child's incarceration. During his or her consideration of modifying the original sentence, the judge should consider the following factors: (1) a review of educational and court documents; (2) participation in rehabilitative and educational programs while in prison; (3) age at the time of offense; (4) immaturity at the time of the offense; (5) ability to appreciate the risks and consequences of the conduct; (6) intellectual capacity; (7) level of participation in the offense; (8) history of trauma or involvement in the child welfare system; (9) efforts made toward rehabilitation; (10) any other evidence submitted by the individuals counsel; and (11) any other mitigating factors or circumstances.

V. Support Youth Reentry

Approximately 100,000 young people under age 18 leave secure juvenile facilities and return to their communities each year.[68] Many youth are placed back into neighborhoods with few youth supportive programs, high crime rates, poverty, and poor performing schools. Yet many are not provided with the comprehensive reentry planning that would help them to succeed when they return to their communities. The U.S. Departments of Education and Justice have recommended that juvenile justice settings create individualized pre-release plans for youth immediately upon the youth's entry into a facility.[69] Public safety is compromised when youth leaving out-of-home placements are not afforded necessary planning and supportive services upon reentering their communities, increasing the likelihood of recidivism.

Effective reentry services and aftercare for youth exiting juvenile justice facilities reduce recidivism and support their successful reintegration into families and communities. Education, in particular, has been found to be essential to ensuring long-term reentry success for youth, yet 66 percent do not return to school after release from secure custody.[70] By fostering reintegration into school, mastery of independent life skills, and mental health and substance abuse treatment for those youth who need such assistance, reentry services built around each individual youth and his or her unique needs will help young people build the resiliency and positive development to divert them from harm and delinquent behaviors. Also, reentry preparation for youth who have been incarcerated for longer periods of time for serious felonies, or youth serving life without parole sentences that are no longer legally permitted, should be prepared for reentry during these longer periods of incarceration through access to education, job training, and other health and social programs.

If our nation expects to reduce recidivism, it must establish a national policy agenda that supports reentry services to connect youth with meaningful opportunities for self-sufficiency and community integration. Planning should begin prior to release and support services should follow the youth home. Policy and practice must be grounded in promising or evidence-based practices and involve cooperation among existing federal and State agencies, local stakeholders, juvenile justice experts, and reform advocates.

Reauthorize and Increase Funding for the Second Chance Act

Congress should reauthorize and increase funding for the Second Chance Act. An increase over the $68 million appropriated in FY 2015 would help provide necessary resources to support youth reentry services. In recent years, the percentage of funding dedicated to youth reentry services from the Second Chance Act has decreased. It is critical to maintain and continue these investments as a way to support youth access to reentry services at the local level, as well as to help ensure the successful reentry of youth, who otherwise could return to the juvenile justice or adult criminal justice system at great cost to themselves, their families, and taxpayers. Targeted resources and supports help to ensure reentering youth are afforded the opportunity to have positive life outcomes and are equipped with important and necessary skills. Federal re-entry funds also help to support innovative models that can be replicated elsewhere.

Protect Juvenile Records and Eliminate Barriers

Juvenile records contain highly sensitive information such as details about the child's family, education, social history, behavioral problems, mental health and/or substance abuse issues. This information is used to provide targeted treatment and rehabilitative services to individual youth, but can impede a young person's successful transition to adulthood if it is available to the public. Public access to these records can negatively affect a young person's ability to find employment and housing, to obtain health insurance, to enroll in a post-secondary education program or to enlist in military service.[71] We call on Congress to pass provisions like those included in the REDEEM Act, which improve juvenile record confidentiality, automatically expunge nonviolent juvenile offenses of children before they turn fifteen, and automatically seal nonviolent juvenile offenses that occur after a child has reached the age of fifteen.

Increase Funding for the Reintegration of Ex-Offenders (RExO) Program at Department of Labor

Managed by the Employment & Training Administration at the U.S. Department of Labor, the Reintegration of Ex-Offenders (RExO) Program, funded at $82 million in FY 2015, provides grants to nonprofit organizations for employment services for formerly incarcerated adults and young people with the aim of reducing recidivism and improving workforce outcomes. Authorized under Section 171 of the Workforce Investment Act (WIA) of 1998, RExO programs provide viable, living-wage pathways for persons with criminal records to successfully reenter society and become productive, law-abiding citizens. Importantly, the RExO Program recognizes the need for targeted reentry service for young people by including a $20 million set-aside to assist formerly incarcerated youth from high-poverty, high-crime areas. RExO funds are used to prepare participants for jobs in high demand industries through career pathways and industry-recognized credentials. Successful reentry into the workforce can improve neighborhoods, strengthen families, and reduce crime. Research has demonstrated that employment is associated with lower rates of reoffending, and that higher wages are associated with lower rates of criminal activity.[72]

Increase Access to Education for Youth in Facilities and upon Reentry through Reauthorization of the Elementary and Secondary Education Act (ESEA)

An increasing number of researchers and policy makers have identified access to education

as one of the most important factors in determining successful youth reentry back into the community from the juvenile justice system. Unfortunately, a majority of these youth are not able to return to school or continue their education upon reentry, and education for youth inside correctional facilities often is not aligned with state curricula or quality standards. Reauthorization of the Elementary and Secondary Education Act (ESEA) could help increase access to education for youth in correctional and detention facilities and upon reentry by:

- Ensuring an effective transition out of placement to another appropriate school or educational setting.
- Ensuring that education providers within juvenile facilities meet state standards and keep youth on track for grade promotion and graduation.
- Requiring that states establish procedures for the prompt transfer of educational records, as well as credits earned during placement in the juvenile justice system.
- Encouraging states to consult with stakeholders on the issue of youth access to education upon reentry.
- Authorizing federal funding for innovative practices aimed at ensuring the educational success of students reentering school from the juvenile justice system.
- Requiring local education agencies to allocate a portion of Title I, Part D funding for youth reentry services and supports and ensuring that funds are spent in this way.
- Authorizing alternatives to the Title I, Part D "seat time" requirement.
- Implementing sanctions or loss of preferential status for funding or other benefits for states and/or local education agencies that do not provide the required or appropriate educational services upon reentry or remove barriers to school reentry.
- Holding schools more accountable for graduation rates and including juvenile justice-involved youth in state accountability systems.

Endnotes

[1] Federal Bureau of Investigation. (November 2014). *Crime in the United States 2013*. Washington, DC: U.S. Department of Justice. Available at: http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-

[2] *Id.*

[3] Hickenberry, S. and Puzzanchera, C. (December 2014). *Delinquency Cases in Juvenile Court, 2011*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. Available at: http://www.ojjdp.gov/pubs/248409.pdf.

[4] Arya, Neelum. (2011). *State Trends: Legislative Victories from 2005 to 2010, Removing Youth from the Adult Criminal Justice System*. Washington, DC: Campaign for Youth Justice. Available at: http://www.campaignforyouthjustice.org/documents/CFYJ_State_Trends_Report.pdf.

[5] Juveniles in Corrections. (October 26, 2012). *Statistical Briefing Book, Custody Data (1997-Present)*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. Available at: http://www.ojjdp.gov/ojstatbb/corrections/qa08201.asp?qaDate=2012.

[6] Minton, Todd D. (June 2013). *Jail inmates at midyear 2013*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. *See also*, Golinelli, D. and Minton, T. (May 2013). *Prison inmates at midyear 2013*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.

[7] American Civil Liberties Union and Human Rights Watch. (October 2012). *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*. Washington, DC. Available at: https://www.aclu.org/criminal-law-reform-disability-rights/growing-locked-down-youth-solitary-confinement-jails-and.

[8] These recommendations use the acronym "LGBT" in the broadest sense possible. Because terminology is constantly evolving and because certain groups may gravitate to certain terms and abbreviations over others, it is difficult to come to a commonly agreed upon acronym that reflects all perspectives. Please understand that the use of "LGBT" is intended to be as inclusive of all other identities as possible, unless otherwise specified, such as with regard to research that focuses on particular demographics.

[9] Justice Policy Institute (December 2014). *Sticker Shock: Calculating the Full Price Tag for Youth Incarceration*. Washington, DC. Available at: http://www.justicepolicy.org/research/8477. *See also*, Mendel, R. (2011). *No Place for Kids, The Case for Reducing Juvenile Incarceration*. Baltimore, MD: The Annie E. Casey Foundation. Available at: www.aecf.org/noplaceforkids.

[10] Tony Fabelo et al., (2015) *Closer to Home: An Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms*. Justice Center, Council of State Governments. Available at: http://csgjusticecenter.org/youth/publications/closer-to-home.

[11] Brown, S. (June 2012). *Trends in Juvenile Justice State Legislation: 2001-2011*. Washington, DC: National Conference of State Legislatures. Available at: http://www.ncsl.org/documents/cj/trendsinjuvenilejustice.pdf.

[12] For more information, see testimony of Shay Bilchik, former OJJDP Administrator, before the US House of Representatives, Judiciary Committee, Subcommittee on Crime, Terrorism and Homeland Security on September 18, 2008, at http://judiciary.house.gov/hearings/pdf/Bilchik080918.pdf.

[13] Bonnie, R., Chemers, B., and Schuck, J. Editors (November 2012). *Reforming Juvenile Justice: A Developmental Approach*. Washington, DC: Committee on Assessing Juvenile Justice Reform, Committee on Law and Justice, Division of Behavioral and Social Sciences and Education, National Research Council. Available at: http://www.nap.edu/catalog.php?record_id=14685.

[14] National Research Council. (2014). *Implementing Juvenile Justice Reform: The Federal Role*. Committee on a Prioritized Plan to Implement a Developmental Approach in Juvenile Justice Reform, Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press. Available at: http://www.nap.edu/catalog/18753/implementing-juvenile-justice-reform-the-federal-role.

[15] *See* S. 2999, Juvenile Justice and Delinquency Prevention Reauthorization Act of 2014, introduced December 11, 2014.

[16] *See* S. 678, Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009, introduced March 24, 2009.

[17] In recent years, a range of organizations have commissioned or conducted related research and reached similar conclusions, including the American Psychological Association, the Washington State Institute for Public Policy, the Social Development Research Group of Seattle, Washington, and the Office of Juvenile

Justice and Delinquency Prevention. For more information, see http://chhi.podconsulting.com/assets/documents/publications/NO MORE CHILDREN LEFT BEHIND.pdf.

[18]The Mellman Group and Public Opinion Strategies for the Pew Charitable Trusts' Public Safety Performance Project. (2014). *Public Opinion on Juvenile Justice in America*. Available at: http://www.pewtrusts.org/~/media/Assets/2014/12/PSPP_juvenile_poll_web.pdf?la=en. See also, GBA Strategies for the Campaign for Youth Justice. (2011). *Youth Justice System Survey*. Available at: http://www.gbastrategies.com/public_files/cfyj101111m1.pdf.

[19] *See* Center for the Study and Prevention of Violence at: http://www.colorado.edu/cspv/blueprints.

[20] PL 96-509, 1980 S 2441, 94 Stat. 2755 (December 1980).

[21] *cf. Id.*

[22]Nelson, D. W. (2008). *A Road Map for Juvenile Justice Reform*. Baltimore, MD: Annie E. Casey Foundation. Holman, B. and Ziedenberg, J. (2006). *The Dangers of Detention*. Washington, DC: Justice Policy Institute.

[23] *Id.*

[24]Hockenberry, S. and Puzzanchera, C. (2014). *Juvenile Court Statistics 2011*. Pittsburgh, PA: National Center for Juvenile Justice. http://www.ncjj.org/Publication/Juvenile-Court-Statistics-2011.aspx.

[25] Watson, L. and Edelman, P. (October 2012). *Improving the Juvenile Justice System for Girls: Lessons from the States*, Washington, DC: The Center on Poverty, Inequality, & Public Policy, Georgetown University Law Center. Available at: http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/JDS_V1R4_Web_Singles.pdf.

[26] Irvine, A. (2010). *We've Had Three of Them: Addressing the Invisibility of Lesbian, Gay, Bisexual and Gender Non-conforming Youths in the Juvenile Justice System*, 19 Colum. J. Gender & L. 675, 693.

[27] *See* Office of Juvenile Justice and Delinquency Prevention, Compliance Data for FY2013-FY2014. Available at: http://www.ojjdp.gov/compliance/FY2013-FY%202014VCO-state.pdf.

[28] *See* P.L. 110-378, The Reconnecting Homeless Youth Act of 2008.

[29] Justice Policy Institute (December 2014). *Sticker Shock: Calculating the Full Price Tag for Youth Incarceration*. Washington, DC. Available at: http://www.justicepolicy.org/research/8477.

[30] *See* Census of Juveniles in Residential Placement, 1997-2011. Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC. Available at: http://www.ojjdp.gov/ojstatbb/ezacjrp.

[31] *See* Juvenile Detention Alternatives Initiative at: http://www.jdaihelpdesk.org.

[32] Fazal, S. (2014). *Safely Home: Reducing Youth Incarceration and achieving positive outcomes for high and complex need youth through effective community-based programs*. Washington, DC: Youth Advocate Programs Policy and Advocacy Center. Available at: http://www.yapinc.org/WhatWeDo/Policyamp;AdvocacyCenter/Publications/tabid/525/Default.aspx.

[33] Greene, J., Pranis, K., and Ziedenberg, J. (2006). *Disparity by design: How drug-free zone laws impact racial disparity—and fail to protect youth*. Washington, DC: Justice Policy Institute.

[34] African American Policy Forum and Center for Intersectionality and Social Policy Studies. (February 2015). *Black Girls Matter: Pushed Out, Overpoliced and Underprotected*. New York, NY. Available at: http://static1.squarespace.com/static/53f20d90e4b0b80451158d8c/t/54dcc1ece4b001c03e323448/1423753708557/AAPF_BlackGirlsMatterReport.pdf

[35] *See* Dignity in Schools, available at: http://www.dignityinschools.org.

[36] Advancement Project. (March 2010). *Test, Punish, and Push Out: How "Zero Tolerance" and High-stakes Testing Funnel Youth into the School-to-Prison Pipeline*. Washington, DC. Available at: http://b.3cdn.net/advancement/d05cb2181a4545db07_r2im6caqe.pdf.

[37] Torres, M. and Stefkovich, J. A. (2009). *Demographics and Police Involvement: Implications for Student Civil Liberties and Just Leadership*. Education Administration Quarterly 45(3): 450-473.

[38] Kupchik, A. (December 30, 2012), *The flaws in the NRA's school-security proposal*. The Washington Post. Available at: http://www.washingtonpost.com/opinions/the-nras-faulty-school-security-proposal/2012/12/30/b5b73fc0-5054-11e2-950a-7863a013264b_story.html.

[39] Cocozza, J. et al. (September 2010). *Addressing the Mental Health Needs of Youth in Contact with the Juvenile Justice System in System of Care Communities: An Overview and Summary of Key Issues*. Technical Assistance Partnership for Child and Family Mental Health. Washington, DC. Available at: http://www.tapartnership.org/docs/jjResource_overview.pdf.

[40] Federal Advisory Committee on Juvenile Justice (2006). *Federal Advisory Committee on Juvenile Justice Annual Report 2006*. Washington, DC. Available at: http://www.ncjrs.gov/pdffiles1/ojjdp/218367.pdf.

[41] *See* P.L. 108-414, Mentally Ill Offender Treatment and Crime Reduction Act.
[42] Watson, L. and Edelman, P. (October 2012). *Improving the Juvenile Justice System for Girls: Lessons from the States*, Washington, DC: The Center on Poverty, Inequality, & Public Policy, Georgetown University Law Center. Available at: http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/JDS_V1R4_Web_Singles.pdf.
[43] Godsoe, C. (2014). *Contempt, Status, and the Criminalization of Non-Conforming Girls*. Cardozo Law Review, Vol. 34: 1091. Available at: http://ssrn.com/abstract=2446224; Sherman, F. (2013). *Justice for Girls: Are We Making Progress?* Criminal Justice 28, no. 2: 9-17. *See also*, Human Trafficking and the State Courts Collaborative. (November 2013). *Dealing With Human Trafficking Victims in a Juvenile Case*. Available at http://www.htcourts.org/wp-content/uploads/HT_Victims_inJuvenileCases_v02.pdf?InformationCard=Dealing-With-HT-Victims-Juvenile.
[44] Berwick, Oddo, Durso, et al. (February 14, 2014) *Identifying and Serving LGBTQ Youth: Case Studies of Runaway and Homeless Youth Program Grantees*, Final Report, Mathematica Policy Research ("National Longitudinal Study of Adolescent Health found that 7.4 percent of boys and 5.3 percent of girls in grades 7–12 reported same-sex romantic attraction, and results of a recent nationally representative survey of U.S. adults indicate that approximately 3.4 percent identify as LGBT (Russell et al. 2001; Gates and Newport 2012)", available at: http://www.aspe.hhs.gov/hsp/14/lgbt-rhy/rpt_LGBTQ_RHY.pdf. *See also* Irvine, A. (2014) *Dispelling Myths: Understanding the incorceration of lesbian, gay, bisexual, and gender nonconforming youth*, upcoming working paper, National Council on Crime and Delinquency, Oakland, CA.
[45] Himmelstein, K., and Bruckner, H. (January 2011). *Criminal Justice and School Sanctions against Non-Heterosexual Youth: A National Longitudinal Study*. Pediatrics (published online December 6, 2010).
[46] Beck, A.J., Cantor, D., Hartge, J. & Smith, T. (June 2013). *Sexual Victimization in Juvenile Facilities Reported by Youth, 2012*. Washington, DC: Bureau of Justice Statistics. Available at: http://www.bjs.gov/content/pub/pdf/svjfry12.pdf.
[47] Beck, A.J. & Harrison, P.M. (2006*). Sexual Violence Reported By Correctional Authorities, 2005*. Washington, DC: Bureau of Justice Statistics.
[48] Elinson, Z. (January 1, 2015). *Juvenile Sexually Abused by Staffers at Corrections Facilities*, Wall Street Journal. Accessed February 4, 2015 at http://www.wsj.com/articles/juveniles-sexually-abused-by-staffers-at-corrections-facilities-1420160340.
[49] In Mississippi, staff dangerously and routinely shackled youth to metal beds for discipline, excessively used isolation as punishment and regularly violated youths' due process rights. Perez, T. (March 31, 2011). Investigative Findings Letter. Washington, DC: U.S. Department of Justice, Civil Rights Division. Available at: http://www.justice.gov/crt/about/spl/documents/LeFloreJDC_findlet_03-31-11.pdf. *See also*, Perez, T. (August 10, 2012). Investigative Findings Letter. Washington, DC: U.S. Department of Justice, Civil Rights Division. Available at: http://www.justice.gov/crt/about/spl/documents/meridian_findletter_8-10-12.pdf.
[50] In Ohio, girls in a state facility were sexually assaulted by male staff. *Ohio Settles Suit Over Juvenile Jails*. (April 4, 2008). Associated Press. *See also*, Kim, W. (May 9, 2007). Investigative Findings Letter. Washington, DC: U.S. Department of Justice, Civil Rights Division. Available at http://www.justice.gov/crt/about/spl/documents/scioto_findlet_5-9-07.pdf.
[51] In New Jersey, two boys' due process rights were violated. *See*, T.D. and O.S. v. Mickens et al. (December 2, 2010). Available at: http://jlc.org/legal-docket/td-and-os-v-mickens-et-al.
[52] In Louisiana, youth were physically and sexually abused by staff. Perez, T. (January 18, 2011). Investigative Findings Letter. Washington, DC: U.S. Department of Justice, Civil Rights Division. Available at: http://www.justice.gov/crt/about/spl/documents/TerrebonneJDC_findlet_01-18-11.pdf.
[53] Sickmund, M., Sladky, T.J., Kang, W., and Puzzanchera, C. (2013) *Easy Access to the Census of Juveniles in Residential Placement*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. Available at: http://www.ojjdp.gov/ojstatbb/ezacjrp/.
[54] Hartney, C. and Vuong, L. (2009). *Created Equal: Racial and Ethnic Disparities in the U.S. Criminal Justice System*. National Council on Crime and Delinquency. Available at: http://nccdglobal.org/sites/default/files/publication_pdf/created-equal.pdf.
[55] Daugherty, C. (2014). *State Trends: Updates from the 2013-2014 Legislative Session*. Washington, DC: Campaign for Youth Justice.
[56] Civil Rights Data Collection: Data Snapshot (School Discipline). (March 21, 2014). Washington, DC: U.S. Department of Education Office for Civil Rights. Available at: http://www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf.

[57] Reassessing Solitary Confinement: The Human Rights, Fiscal and Public Safety Consequences. (June 11, 2012). Hearings before the Subcommittee on the Constitution, Civil Rights and Human Rights of the U.S. Senate Committee on the Judiciary, 112th Congress. *See also*, Simkins, S., Beyer, M., and Geis, L. (2012). *The Harmful Use of Isolation in Juvenile Facilities: The Need for Post-Disposition Representation*, 38 Wash. U. J. L. & Pol'y 241.

[58] In one recent study, the sexual offense recidivism rate of youth who committed a sex offense was less than 1%. See Letourneau, E. J. & Armstrong, K. S. (2008). *Recidivism rates for registered and nonregistered juvenile sexual offenders*. Sexual Abuse: A Journal of Research and Treatment, 20, 393-408. *See also*, Caldwell, M. F., Zemke, M. H., & Vittacco, M. J. (2008). *An examination of the sex offender registration and notification act as applied to juveniles*. Psychology, Public Policy and Law, 14, 89-114. See also, Letourneau, E. J., Bandyopadhyay, D., Armstrong, K. S., & Sinha, D. (2010). *Do Sex Offender Registration and Notification Requirements Deter Juvenile Sex Crimes?* Criminal Justice and Behavior, 37, 553-569. *See also*, Peter Whoriskey, "Some Curbs on Sex Offenders Called Ineffective, Inhumane." (November 22, 2006). Washington Post,. Available at: http://www.washingtonpost.com/wp-dyn/content/article/2006/11/21/AR2006112101468_pf.html#.

[59] D. Finkelhor et al. (December 2009). *Juveniles Who Commit Sex Offenses against Minors*, Juvenile Justice Bulletin. Washington, DC: National Criminal Justice Reference Service, as cited in Tabachnick, J. and Klein, A. (2011). *A Reasoned Approach: Reshaping Sex Offender Policy to Prevent Child Sexual Abuse*. Association for the Treatment of Sexual Abusers.

[60] Arya, N. (2011). *State Trends: Legislative Victories from 2005 to 2010, Removing Youth from the Adult Criminal Justice System*. Washington, DC: Campaign for Youth Justice.

[61] Report of the Attorney General's National Task Force on Children Exposed to Violence. (December 2012). *Defending Childhood*. Washington, DC: U.S. Department of Justice. Available at: http://www.justice.gov/defendingchildhood/cev-rpt-full.pdf.

[62] Beck, A.J. & Harrison, P.M. (2006*). Sexual Violence Reported By Correctional Authorities, 2005*. Washington, DC: Bureau of Justice Statistics.

[63] Human Rights Watch and American Civil Liberties Union. (October 2012). *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*. Washington, DC. Available at: http://www.hrw.org/sites/default/files/reports/us1012ForUpload.pdf.

[64] Campaign for Youth Justice. (November 2007). *Jailing Juveniles*. Washington, DC. Available at: http://www.campaignforyouthjustice.org/documents/CFYJNR_JailingJuveniles.pdf.

[65] Campaign for Youth Justice. (March 2007). *The Consequences Aren't Minor: the Impact of Trying Youth as Adults and Strategies for Reform*. Washington, DC. Available at: http://www.campaignforyouthjustice.org/documents/CFYJNR_ConsequencesMinor.pdf.

[66] *Id.*

[67] Redding, R. (June 2010). *Juvenile transfer laws: An effective deterrent to delinquency?* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. Available at: https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf.

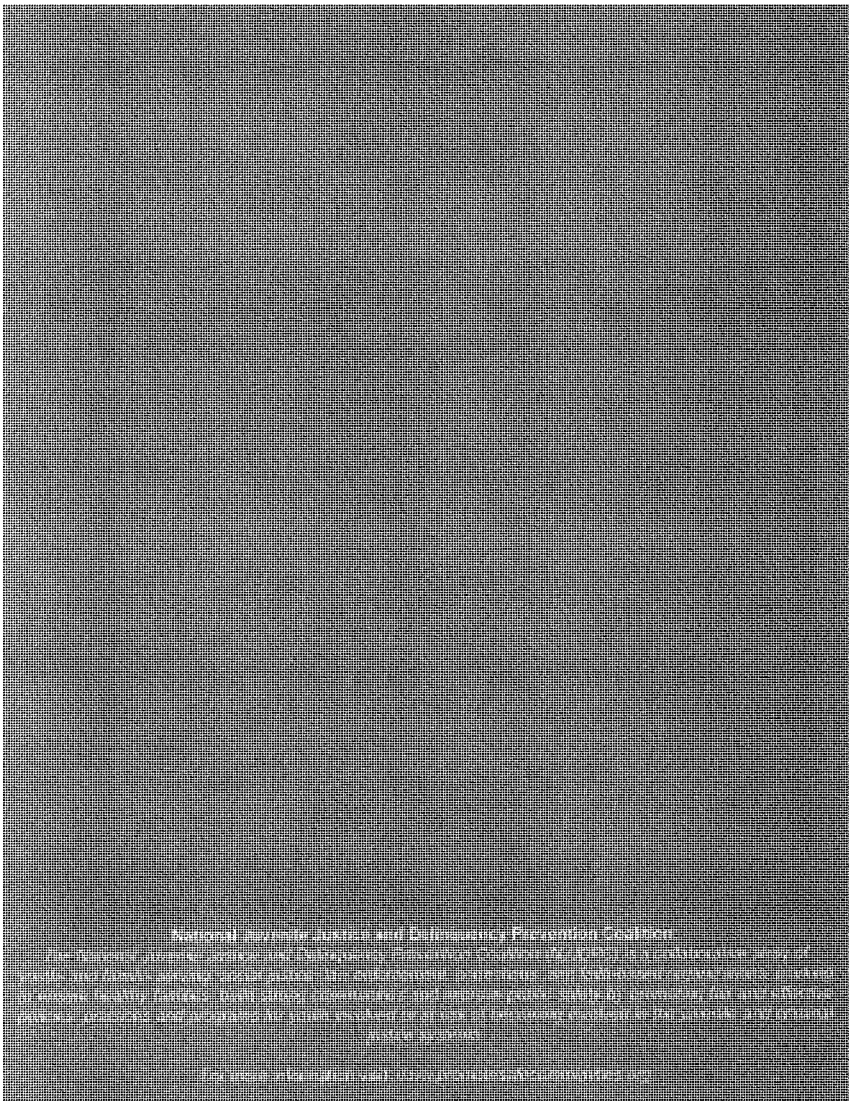
[68] Snyder, H. (2004). *An Empirical Analysis of the Youth Reentry Population*. Youth Violence and Juvenile Justice 2(1): 39-55.

[69] U.S. Departments of Education and Justice. (December 2014). *Guiding Principles for Providing High-Quality Education in Juvenile Justice Secure Care Settings*. Washington, DC.

[70] Federal Interagency Reentry Council. (June 2014). *Juvenile Reentry*. Washington, DC. Available at: http://csgjusticecenter.org/wp-content/uploads/2014/06/Juveniles.pdf.

[71] Shah, R. and Fine, L. (November 2014). *Failed Policies; Forfeited Futures: A Nationwide Scorecard on Juvenile Records*. Philadelphia, PA: Juvenile Law Center. Available at: http://jlc.org/sites/default/files/publication_pdfs/scorecard.pdf.

[72] Bernstein J. & Houston, E. (2000). *Crime and Work: What We Can Learn from the Low-wage Labor Market*. Washington, DC: Economic Policy Institute. *See also*, Western B. and Petit B. (October 2000). *Incarceration and Racial Inequality in Men's Unemployment*, Industrial and Labor Relations Review, Vol. 54, No. 1.



Chairman KLINE. We're about 3 minutes away from a hard stop. I want to thank the witnesses for being here today. I want to ask unanimous consent to submit a letter from Fight Crime: Invest in Kids into the hearing record on behalf of Mr. Thompson from Pennsylvania. Hearing no objection, the letter is submitted.

[The information follows:]

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FIGHT CRIME: Invest in Kids

Thousands of Police Chiefs, Sheriffs, Prosecutors, other Law Enforcement Executives, and Violence Survivors Preventing Crime and Violence

October 8, 2015

Dear Members of the Committee on Education and the Workforce:

We are members of Fight Crime: Invest in Kids, a national organization of nearly 5,000 law enforcement leaders nationwide, including chiefs of police, sheriffs, prosecutors, and other law enforcement executives. We write to express our strong support for community-based interventions that are research-proven to reduce youth recidivism. The reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDPA) presents an important opportunity to promote these programs, which can prevent youths from engaging in criminal activity or rehabilitate youths starting to offend. We thank the Committee for your attentiou to juvenile justice issues and urge your support for a robust JJDPA reauthorization that prioritizes funding for these proven programs.

Recidivism remains a serious problem, draining law enforcement resources and damaging public safety. Past studies have shown that if a youth 14 years old or younger becomes a second-time offender, their likelihood of future run-ins with law enforcement spikes to 77 percent; and nationwide, almost half of youths who come before juvenile court (40 percent) will come before the court at least one more time. More needs to be done to ensure that if a youth offends, their first coutact with the justice system is also their last.

Research has shown that effective community-based intervention programs for youths and their families can significantly reduce the likelihood that the youth will get into trouble again. By reasserting family and personal responsibility, and coaching parents and children in the skills they will need to change the youths' behaviors, juvenile offenders are much more likely to engage in more pro-social behavior aud avoid future run-ins with the law.

Many states have expanded the use of these intervention programs in recent years, and additional support through JJDPA reauthorization would help states continue this work. In Pennsylvania, two highly effective community-based interventions are Functional Family Therapy (FFT) and Multisystemic Therapy (MST). FFT operates in nine sites in Pennsylvania, and MST operates 26 teams throughout the state.

Both interventions have been tested through randomized-control trials. One study found that youth whose families received FFT coaching were half as likely to be re-arrested as those whose families did not. Another study found FFT reduced subsequent out-of-home placements by three quarters. Further, because of the reduced costs associated with crime and contact with the justice system, FFT was found to save the public $27,000 per youth treated. Studies of MST found juvenile offenders who had not received MST were 62 percent more likely to be

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Fight Crime: Invest in Kids is a membership organization of law enforcement leaders and violence survivors under the umbrella non-profit Council for a Strong America

arrested for another offense and more than twice as likely to be arrested for a violent offense. MST also saved the public an average of $16,000 for every juvenile treated.

Cumberland County, Pennsylvania, which lies just west of Harrisburg, recently quantified the impact of the MST programs operating locally. A recent study done for the County's Juvenile Probation Department by the Criminology Department at Indiana University of Pennsylvania (IUP) looked at the County's assessment of juvenile offenders and then their recidivism rates going forward after disposition.

Multisystemic Therapy is targeted towards High Risk and High Moderate Risk offenders. Without proper treatment, High Risk offenders have an 80 percent chance of recidivism, while High Moderate Risk offenders have a 60 percent chance of committing another crime. The IUP study showed that juveniles who participated in MST through Cumberland County's two providers had recidivism rates of 27 and 12 percent. Researchers concluded that the County's use of MST helped to reduce its incarceration costs for juveniles from $274,000 in 2009 to just $20,000 in 2012.

There is a bipartisan Senate bill to reauthorize JJDPA, S. 1169, which would provide federal support for evidence-based programs to combat youth recidivism. This reauthorization strengthens the evidence-based standard, ensuring the federal investment will go to programs that have demonstrated significant effectiveness. It also encourages continued growth in the anti-recidivism field by allowing a smaller portion of funds to go to promising programs, thus encouraging innovation and yielding the greatest results for the community. We urge the Committee on Education & Workforce to draft a companion bill that maintains this focus on evidence-based programs with a second tier for promising programs.

Law enforcement leaders nationwide remain committed to doing what is necessary to protect public safety, and we know that families and communities have an important role to play. We support the reauthorization of JJDPA that will provide support for family-centered and community-based interventions, like FFT and MST. This is a strategic investment in public safety and an important support for law enforcement. Changing the behavior of a teenager is more likely than changing the behavior of an adult career criminal. This not only benefits those youths, but also law enforcement, the taxpayer, and the community.

We applaud the Committee for holding this hearing today and urge Congress to reauthorize JJDPA to prioritize evidence-based programs to get troubled kids back on track and improve public safety.

Sincerely,

David J. Freed
District Attorney
Cumberland County (PA)

Denny Nau
Sheriff
Centre County (PA)

Chairman KLINE. And I'll now recognize Mr. Scott for any closing remarks he has.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Chairman, I think we have heard a fairly consistent message, particularly from Right on Crime, that we can reduce crime and save money by making strategic investments in prevention, early intervention, rehabilitation, especially education, family therapy, and trauma-informed services.

Judge Teske mentioned that a way of doing this would be through a process similar to the Youth PROMISE Act. We've heard support of the core requirements, and it appears that there's a consensus on approving the legislation.

So Mr. Chairman, I look forward to working with you as we reauthorize the Juvenile Justice and Delinquency Prevention Act, and ask unanimous consent to enter into the record a list of policy recommendations from the Juvenile Justice Coalition ACT4.

Chairman KLINE. Without objection.

[The information follows:]

A CAMPAIGN OF THE NATIONAL JUVENILE JUSTICE
& DELINQUENCY PREVENTION COALITION
www.act4jj.org

Juvenile Justice and Delinquency Prevention Act (JJDPA)
Policy Recommendations

The Act 4 Juvenile Justice campaign of the National Juvenile Justice and Delinquency Prevention Coalition—composed of national, international, state and local organizations—believes that it is time for Congress to reauthorize and strengthen the JJDPA.

Reauthorization of the JJDPA is currently more than seven years overdue. Congress can and should use the reauthorization of the JJDPA as an opportunity to strengthen accountability, restore federal investment in juvenile justice, help states protect public safety, hold delinquent youth accountable, protect our children from harm, and provide rehabilitation services to prevent future delinquency. This landmark law was last reauthorized in 2002, but few substantive changes were made at that time. Since the last major reauthorization of the JJDPA nearly two decades ago, much more is known about what works and does not work to keep our communities safe and put youth on a better path.

The most recent, bipartisan proposal to reauthorize the JJDPA was introduced in 2014,[1] and builds on legislation originally reported out of the Senate Judiciary Committee in the 111th Congress.[2] This latest proposal includes provisions to strengthen the law's core protections by reducing the placement of youth in adult jails pre-trial, providing more structure to the law's requirement to decrease racial and ethnic disparities, and phasing out exceptions that allow the detention of youth who have engaged in status offense behaviors. The bill also promotes the use of alternatives to incarceration, improves conditions and educational services for incarcerated youth, and increases accountability.

Congress should reintroduce this legislation, hold hearings, and pass a final JJDPA reauthorization bill that will:

- Extend the Jail Removal and Sight and Sound separation core protections to all youth under the age of 18 held pretrial, whether charged in juvenile or adult court.
- Codify current state flexibility for housing youth convicted in adult court in juvenile facilities rather than adult prisons by modifying the definition of "adult inmate."

- Strengthen the Deinstitutionalization of Status Offenders (DSO) core protection, which prohibits the locked detention of status offenders, by removing the valid court order (VCO) and Interstate Compact exceptions.
- Strengthen the Disproportionate Minority Contact (DMC) core protection by requiring States to take concrete, measurable steps to reduce racial and ethnic disparities in the juvenile justice system.
- Provide safe and humane conditions of confinement for youth in state or local custody by prohibiting use of JJDPA funds for dangerous practices, encouraging states to adopt best practices and standards to eliminate dangerous practices, and clarifying that isolation of longer than a few hours is a dangerous practice.
- Provide a research-based continuum of mental health and substance abuse services to meet unmet needs of court-involved youth and their families, including diversion and re-entry services.
- Ensure that programs and practices designed to address the needs of system-involved youth are both evidence-based and trauma-informed and reflect adolescent development principles.
- Ensure that confined youth receive high quality education aligned with state and local curricula, and that they receive supports for successful re-entry to school.
- Assist states in compliance with the JJDPA by establishing incentive grants to encourage states to adopt evidence-based and/or promising practices that improve outcomes for youth and their communities. For states that are deemed to be out of compliance with any of the core protections, Congress should require any JJDPA funds withheld for non-compliance to be set aside and made available to those states as improvement grants to help them with those particular protections.
- Enhance the partnership between states and OJJDP by expanding training, technical assistance, research and evaluation. Of particular importance is training to enhance the capacity of state and local courts, judges, and related judicial personnel to more effectively improve the lives of system-involved children and those at risk of becoming involved in the juvenile court system.
- Enhance the partnership between OJJDP and Congress by encouraging transparency, timeliness, public notice, and communication.
- Incentivize juvenile justice systems to ensure that all policies, practices, and programs recognize the unique needs and vulnerabilities of girls.
- Incentivize states to reduce the number of child welfare involved youth who cross over into the juvenile justice system by implementing best practices for cross-system communication and collaboration between child welfare agencies and juvenile justice systems.
- Update provisions to ensure that all policies and practices protect youth from discrimination based on actual or perceived sexual orientation, gender identity, and gender expression, and incentivize juvenile justice systems to increase cultural competency to serve LGBT youth.

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[1] *See* S. 2999, Juvenile Justice and Delinquency Prevention Reauthorization Act of 2014, introduced December 11, 2014.
[2] *See* S. 678, Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009, introduced March 24, 2009.

Chairman KLINE. I thank the gentleman. I want to again thank the witnesses. I will add my thanks and congratulations and admiration to Mr. Baxter for boldly stepping forward and sharing his story.

I commend you, everybody at the table. But the statistics that Mr. Grothman was talking about in terms of recidivism and lower incarceration all seem to be moving in the right direction, exception being what Ms. Clark was talking about with girls, with young women.

So we've got some work to do here. You've been very, very helpful.

There being no further business, the committee stands adjourned.

[Additional submission by Dr. Nolan follows:]

Testimony to the Committee of Education and the Workforce...

Four Points in Time:
Defining the Success of Our Nation's Head Start Investment

Dr. Tim Nolan

2015 marks the 50th anniversary of Head Start creating opportunities for at-risk children and families. Ten percent of all Americans have now attended Head Start, including Darren Walker, president of the Ford Foundation, and the Honorable Sylvia Mathews Burwell, Secretary of HHS. This topic could not be more important as we look toward shaping the future of this national resource.

Head Start was created in 1964 and launched in 1965 as an intervention program. Physicians and psychologists were invited to the table to shape the program. There was not an educator among them. Head Start has always been an intervention program that would include, but not be limited to, achieving cognitive learning gains. What makes Head Start unique is its focus upon achieving life readiness gains that show up in school, in adolescence and in adults with a Head Start experience.

To accomplish this, we focus on the whole child: nutrition, medical and dental health, mental health, interpersonal skills development and the multiple domains of cognitive development. Young children cannot learn if their teeth hurt, if they are hungry, or if they are regularly absent because of unstable housing or family challenges. We also work with parents, their child's first and foremost teacher.

Evaluating the investment in Head Start children and their families is critical to ensure that the spending of federal dollars is held to the standard of being an investment rather than a mere expense. Head Start has differentiated itself well as a great investment in the world of publicly funded programs.

Head Start must be evaluated at four distinct points in time:

1. As children newly arrive in either Head Start or Early Head Start
2. As these same children leave Head Start to enter public school
3. As these children progress through early elementary school
4. As Head Start graduates progress through adulthood

1. Program evaluation as children arrive in Head Start/Early Head Start

Head Start is in business to find, enroll and work intensively with children and families who are both low income and identifiable as likely to encounter problems in their life and in school. Given the limited funding currently available, only about 5 percent of eligible children can be served in Early Head Start and less than 50 percent of eligible children can be served in Head Start. The children eligible for the program are ranked by need with the most needy being admitted. As an intervention program, Head Start programs should be evaluated on the basis of their success in finding and enrolling the most in need of Head Start intervention services. Measuring the newly admitted child's performance helps to establish the benchmark with which to compare their progress upon completing

their Head Start experience. Measures in place now include child performance across the full spectrum, including social skills and cognitive functioning. Given that Head Start is mandated to serve the most needy, we could create a means of gathering and consolidating data that would rate the individual grantee's success in enrolling the most in need.

2. Program evaluation as the same children leave Head Start to enter public school

Every single study completed on Head Start indicates that children leaving Head Start have vastly improved performance than their performance upon entry into Head Start. There simply is no study in 50 years that indicates that Head Start does not greatly increase the enrolled child's cognitive capabilities, ability to learn and social skills necessary for success in school and in life.

The outcomes data on enrolled children is gathered regularly on every child. We gather data as the year begins, again midway through the year and once again at the end of the year. Data is used to inform practice. It enables Head Start teachers to tune their approaches to fostering learning in each individual child in ways that large groups with a single teacher cannot begin to accomplish.

When the data gathered as children leave Head Start is compared with the data collected when they first were enrolled in the program, significant gains are the norm for the children. Additionally, the same comparisons are there for gains made by parents from the beginning to the end of their child's Head Start experience. Gains in the lives of parents and specifically gains in parenting skills are the norm for parents. Some parents make Head Start a life-changing experience for themselves and their child.

3. Examining success in school

One challenge that Head Start was created to address on its way to shaping life readiness is success in school, a very important variable in a child's life. One challenge that Head Start faces is that, while it *feeds children into some of the very best-performing schools in the country, it also feeds children into every one of the worst-performing schools in the country*. Measuring children four years after they leave Head Start to determine long-term impacts upon school performance is a major challenge. As a society, we tend to measure that which is easiest to measure rather than that which is the most important to be measured. This means that measures of impact on school performance are often reduced to test scores of third-grade students. There is no measurement of the rest of the child's performance, including such important variables as ability to function in the classroom, work with others or anything related to critically important life skills such as creativity and innovation. We want to believe testing of third-grade children is the definitive measure of success. Of course, it is not.

Head Start children are too often faulted for demonstrating what has been labeled as a "fade-out" effect, meaning that the gains that were clear in the 5-year-old child delivered to the front door of their public school are no longer as

evident after four years of public school education. The assumption too often made by policy makers is that this should be blamed upon the failure of those who worked with the child in their early years. Logic would indicate that the public school bears major responsibility for not being able to maintain the gains made early in the child's life, given that the school had control over the child over the most recent four years of that 9-year-old child's life. Children entering public schools often find themselves in groups of 20 to 30 children with a single teacher. Their families are not encouraged to continue their role as a partner with their child's public school teacher. Meeting the needs of the whole child is not seen as the mission for the public school. As supports drop off, gains logically dwindle.

Another possibility is intertwined into this period. It is well understood in the literature that young children (and by the way successful adults) learn by exploring. They ask questions of the adults around them and ask and answer questions of themselves as they explore their environment. Research has indicated that children may ask up to 100 questions a day. Healthy young children have a natural curiosity that drives their learning. As they hit formal education, the number of questions they ask declines rapidly. Our belief is that this represents the *dampening effects that come from standardized approaches to education that shift the locus of control over what is being learned from the student to the teacher, and to an increasing degree, the standardized tests that loom in the future for both child and their teacher*. This rapid shift from learner-centric learning to teacher-centric education could be considered a "cliff effect" since it moves so rapidly. Public education could not be better designed to suppress creativity.

We also need to determine whether the easily measured cognitive aspects of the child are what truly matter above all else. We know very well that we need to move education away from the accumulation of facts and knowledge, which are available online instantaneously, to critical thinking skills that support creativity and innovation. In 2010, IBM financed the IBM 2010 Global CEO Study, a poll of 1,500 CEOs from 60 countries and 33 industries that identified the most important factor for future success in employees as creativity. We need to be sure that we are measuring what matters most for the future. In two of our books, we cited a story that came from an interview with hockey great Wayne Gretzky. When asked his secret to success in hockey, he answered, "skate to where the puck is going to be." In many ways, our public education system is skating to where the puck *used to be* as it deepens its focus on memorization and knowledge storage in a world that requires creativity, innovation and the ability to work with others to create solutions to ever-changing challenges. We need to measure life-relevant skills.

3. How well does Head Start change lives on a long-term basis? Evaluating the impact upon life...

The most important challenge that Head Start's creators addressed 50 years ago as they invented Head Start was success in life. Historically, children raised in poverty had much higher rates of enrollment in special education; higher dropout

rates from school and high rates of teen pregnancy and incarceration. *Head Start was created to intervene into and change the trajectory of the lives of these children so much at risk.*

Measurement of this impact upon a young child's life requires specialized longitudinal research. Longitudinal research in this context requires identifying young children entering a program such as Head Start and then establishing the capability to track their progress over upcoming decades.

Longitudinal studies of the work of quality early childhood programs were launched as early as 1967. The research tracking two groups of 58 children, one with a strong preschool experience and the other without such experience, tracked children at the Perry Preschool Project in Ypsilanti, Michigan, which operated from 1962 to 1967. Project staff collected data annually on both groups from ages 3 to 11 and again at ages 14, 15, 19, 27, and 40, with a missing data rate of only 6% across all measures. At 40 years of age, the results of this investment were stunning, with longitudinal results demonstrating a $195,621 public benefit for $15,166 invested in a child. Modest investment in a top-quality program results in increased graduation rates from high school, increased rates of employment, increased median income, reduction in teen pregnancies, and increased home ownership. Many more made the transition from dependency on public assistance to economic independence.

Dr. James Heckman, Nobel Prize-winning economist from the University of Chicago, has examined this High/Scope Perry Preschool, the Abecedarian Project, and the Chicago public school programs and declared there is no other investment of dollars that creates a higher and more predictable return on investment. He identified a return on investment in excess of $7 for each dollar invested in the programs covered in the longitudinal research that he studied.

Head Start's success must be measured. These measures must be used to further strengthen the already powerful outcomes of the work we do with young children and their families. They must be used to ensure that federal expenditures continue to be *investments*, which demonstrate both strong returns economically and the creation of better citizens for our country. Ten percent of all Americans have now attended Head Start. We want to continue to improve our quality to better deliver on the promise that any child can succeed in America!

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Quality Early Childhood Education: Enduring Benefits.

by James J. Heckman
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Oct 15, 2015

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Disadvantaged children who receive quality early childhood development have much better education, employment, social and health outcomes as adults, the vast majority of research shows. Unfortunately, this good news is getting lost in the current obsession over third-grade test scores. This is the case with the recent debate around the new Vanderbilt study on the Tennessee pre-K program. Opponents and proponents of early childhood education alike are quickly turning third-grade assessments into a lopsided and deterministic milestone instead of an appropriate developmental evaluation in the lifecycle of skills formation.

There is a reoccurring trend in some early childhood education studies: disadvantaged children who attend preschool arrive at kindergarten more intellectually and emotionally prepared than peers who have had no preschool. Yet by third grade, their math and literacy scores generally pull into parity. Many critics call this "fadeout" and claim that quality early childhood education has no lasting effect. Not so, and not by a long shot.

Too often program evaluations are based on standardized achievement tests and IQ measures that do not tell the whole story and poorly predict life outcomes. The Perry Preschool program did not show any positive IQ effects just a few years following the program. Upon decades of follow-ups, however, we continue to see extremely encouraging results along dimensions such as schooling, earnings, reduced involvement in crime and better health. The truly remarkable impacts of Perry were not seen until much later in the lives of participants. Similarly, the most recent Head Start Impact Study (HSIS) seemingly shows parity at third grade while numerous long-term, quasi-experimental studies find Head Start children to attend more years of schooling, earn higher incomes, live healthier, and engage less in criminal behavior. Considering this, it is especially

important that we see HSIS through before condemning Head Start.

The decision to judge programs based on third grade test scores dismisses the full range of skills and capacities developed through early childhood education that strongly contribute to future achievement and life outcomes. The success of an early childhood program ultimately comes down to what is being evaluated, and too many evaluate the wrong things. Too many measure only half the child, focusing on IQ and cognitive gains at the expense of social and emotional skills that are often stronger determinants of adult success. Conscientiousness, self-control, motivation, persistence and sociability have far greater influence on full-time employment, lifetime wages, health, family and social outcomes than IQ and cognitive skills. In fact, these skills facilitate better performance on achievement tests despite treated children performing no better on IQ tests.

Quality, persistence and the right measurements are essential to actualizing the promise of quality early childhood education to elevate the lives of disadvantaged children and families. The Abecedarian preschool program in North Carolina started at birth and provided parental education, early health, nutrition, and early learning up to age five. After over 35 years of follow-up study on the treatment and control groups it is the only early childhood program that permanently raised IQ and instilled greater character skills which, in combination, delivered greater returns in educational achievement, employment and, most importantly, health. At age 35, treated males had zero incidence of metabolic syndrome—a precursor to chronic disease—in stark contrast to 25% of males who didn't participate in the program. A 25% reduction in chronic disease is lifesaving *and* cost saving.

Research clearly shows that we must invest dollars not dimes, implement high quality programs, develop the whole child and nurture the initial investment in early learning with more K-12 education that develops cognition and character. When we do, we get significant returns in better education, health, social and economic productivity that more than pay for the cost of quality early childhood programs. Yes, quality early childhood education is expensive, but we pay a far higher cost in ignoring its value or betting on the cheap.

[Whereupon, at 11:44 a.m., the committee was adjourned.]

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