



A CAMPAIGN OF THE JUVENILE JUSTICE & DELINQUENCY PREVENTION COALITION

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FACT SHEET: DEINSTITUTIONALIZATION OF STATUS OFFENSES CORE PROTECTION

What is the JJDPA?

The Juvenile Justice and Delinquency Prevention Act (JJDPA), the major vehicle for juvenile justice reform at the federal level, was first passed in 1974 and most recently reauthorized in 2002.ⁱ The JJDPA embodies a partnership between the federal government and the U.S. states, territories and the District of Columbia to protect children and youth in the juvenile and criminal justice system, to effectively address high-risk and delinquent behavior, and to improve community safety.

It is the only federal law that sets out national standards for the custody and care of youth in the juvenile justice system, provides direction and support for state juvenile justice system improvements, and supports programs and practices that have significantly contributed to the reduction of juvenile crime and delinquency.

What is the JJDPA's deinstitutionalization of status offenses (DSO) core protection?

The JJDPA prohibits the incarceration of young people for behaviors that are considered a status offense. Status offenses are behaviors that would not, under the law of the jurisdiction in which the act was committed, be a crime if committed by an adult.ⁱⁱ The most common examples of status offenses are chronic truancy (skipping school), running away from home, violating curfew laws, possessing alcohol or tobacco, or failing to comply with a parent or guardian's reasonable commands. Laws related to status offenses vary by state. Some states, for example, do not consider alcohol and tobacco possession a status offense. Other states do not include curfew violations in their status offense laws.

Valid Court Order (VCO) exception. In 1984, this core protection was amended to include the Valid Court Order (VCO) exception. This exception permits courts to incarcerate children for status offense behaviors if they are in violation of a valid court order. Thus, if a child is told by a judge that they must attend school and later continues to be chronically absent, in many states, a judge is permitted to place the child in secure confinement for this behavior.

How can the DSO core protection be strengthened?

Congress should act to eliminate the VCO exception. According to the National Center for Juvenile Justice, an estimated 137,000 status offense cases were petitioned to juvenile courts in 2010.ⁱⁱⁱ That same year the VCO exception was used to detain 8,000 young people.^{iv}

Incarcerating a child for engaging in status offense behaviors is not the answer. Not only is incarcerating our children expensive - costing nearly \$241 a day - but placing non-delinquent youth in detention facilities also exposes them to a number of dangers, including a risk for physical and sexual assault from staff and other incarcerated youth.^v Research shows that community-based programming, on the other hand, is more cost-effective, and is more likely to help meet the young person's underlying needs.^{vi}

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What are the causes of status offense behaviors?

Sometimes, status offense behaviors such as skipping school and coming home after curfew indicate normal adolescent behavior. Young people's brains do not fully develop until they are in their twenties, and as a result they are more likely to engage in impulsive and risky behaviors.^{vii}

Other times, status offense behaviors are indications that more serious problems exist at home. These behaviors may also be caused by:

- Poor family functioning or dynamics;
- School problems;
- Underlying addiction;
- Unmet mental health needs; or
- Community problems.

For example, research indicates that risk factors for potential truancy include:

- Domestic violence;
- Academic problems;
- Substance abuse;
- Lack of parental involvement in education; and
- Chronic health problems.^{viii}

Research also indicates that many youth who run away were physically or sexually abused at home in the year prior to their runaway episode.^{ix} Family dysfunction and drug use in the company of the child are also endangerment factors for youth who run away.^x

How do states respond to youth who are adjudicated for a status offense?

Each state has different penalties a court may impose on a young person who was adjudicated for a status offense. Many states allow courts to impose sanctions on the youth, such as suspending his or her driver's license or requiring payment of monetary restitution. Most states allow courts to place youth out of their home in relative or substitute care (which may include foster or group home settings) and most allow for the provision of services to the youth or their family. Some states also continue to use the VCO exception to incarcerate children for status offenses. Nearly half of all states have discontinued this practice entirely though, and 10 additional states use the VCO exception less than 100 times per year.^{xi}

States have made a number of improvements in how they address status offense cases in recent years, including:

- Increasing the upper age by which youth may be brought into the status offense system;
- Increasing the use of residential placements for children who allegedly engaged in status offense behaviors;
- Restricting access to a more formal court process by emphasizing community-based and in-home services for families and youth prior to any court involvement.

Prepared by the Coalition for Juvenile Justice (CJJ)

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ⁱ The JJDDPA was most recently authorized by the 21st Century Department of Justice Appropriations Authorization Act through FY2007 (P.L. 107-273).

ⁱⁱ 28 C.F.R. § 31.304(h) (West 2006).

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- ⁱⁱⁱ Puzanchera, C., and Hockenberry, S. 2013. *Juvenile Court Statistics 2010*. Pittsburgh, PA: National Center for Juvenile Justice. Available at: <http://www.ncjj.org/pdf/jcsreports/jcs2010.pdf>. Last accessed Aug. 4, 2014.
- ^{iv} *Supra*. Coalition for Juvenile Justice. (2014). *Use of the Valid Court Order: State-by-State Comparisons*.
- ^v Justice Policy Institute. *The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense*. (2009). Available at: http://www.justicepolicy.org/images/upload/09_05_rep_costsofconfinement_jj_ps.pdf. Last accessed: Aug. 4, 2014.: Bernstein, N. *Burning Down the House: The End of Juvenile Prison*. p. 30. (2014).
- ^{vi} The Vera Institute. *From Court to Communities: The Right Response to Truancy, Running Away, and Other Status Offenses*. p. 4. (2013). Available at http://www.njjn.org/uploads/digital-library/Vera_From-Courts-to-Communities-The-Right-response-to-Truancy_December-2013.pdf. Last accessed Aug. 4, 2014.
- ^{vii} "Applying Research to Practice Brief: What Are the Implications of Adolescent Brain Development for Juvenile Justice?" Available at: http://www.juvjustice.org/sites/default/files/resource-files/resource_138_0.pdf.
- ^{viii} National Center for School Engagement. *Truancy in Denver: Prevalence, Effects and Interventions*. Available at: <http://www.schoolengagement.org/TruancyPreventionRegistry/Admin/Resources/Resources/TruancyInDenverPrevalenceEffectsandInterventions.pdf>. Last accessed Aug. 4, 2014.
- ^{ix} Hammer, H. et al. *National Incidence Studies of Missing, Abducted, Runaway, and Thrown Away Youth*. p. 4. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2002. <http://www.ncjrs.gov/pdffiles1/ojjdp/196469.pdf>. Last accessed: Aug. 4, 2014.
- ^x *Id.*
- ^{xi} Coalition for Juvenile Justice. (2014). *Use of the Valid Court Order: State-by-State Comparisons*. Washington, DC: Coalition for Juvenile Justice. Available at: http://juvjustice.org/sites/default/files/resource-files/State%2520VCO%2520usage_0.pdf. Last accessed Aug. 4, 2014.