

116TH CONGRESS



# OPPORTUNITIES FOR JUVENILE JUSTICE & DELINQUENCY PREVENTION REFORM

National Juvenile Justice and  
Delinquency Prevention Coalition

[www.promotesafecommunities.org](http://www.promotesafecommunities.org)

---

## Acknowledgements & Citation:

This bi-annual policy guide is a collaborative effort by members of the National Juvenile Justice & Delinquency Prevention Coalition (NJJJPC). Editors of the guide would like to thank the following members for their contributions to this report:

Campaign for the Fair Sentencing of Youth  
Campaign for Youth Justice  
Child Welfare League of America  
Center for American Progress  
Center for Children's Law & Policy  
Center for Law & Social Policy  
Coalition for Juvenile Justice  
Collier Collective, LLC  
Futures Without Violence  
Juvenile Law Center  
The W. Haywood Burns Institute  
The National Congress on the American Indian  
National Council of Juvenile and Family Court Judges  
The National Crittenton Foundation  
The National Juvenile Justice Network  
The National Network for Youth  
The National Employment Coalition for Youth  
Rights 4 Girls  
The Sentencing Project  
Youth First Initiative

When citing this guide, we suggest the following:

NAT'L JUVENILE JUSTICE AND DELINQUENCY PREVENTION COALITION, OPPORTUNITIES FOR JUVENILE JUSTICE & DELINQUENCY PREVENTION REFORM (Rachel Marshall and Naomi Smoot eds., 2019).

In a deeply divided nation, a strong consensus emerged during the 115th Congress around protecting our youth. Sixteen years after it was last reauthorized, the House and Senate finally reached a compromise and reauthorized the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP). The Juvenile Justice Reform Act of 2018 strengthens and updates the Federal law that has been protecting justice-involved youth for 45 years.<sup>1</sup> The new law incorporates much of what research and practice has shown is effective in reducing delinquency and keeping communities safe. It calls on State, Tribal, local governments, and U.S. territories to “support a continuum of evidence-based or promising programs that are trauma informed, reflect the science of adolescent development, and that are designed to meet the needs of youth...”<sup>2</sup> The law strengthens national standards by reducing the placement of youth in adult jails pre-trial and provides more structure to the law’s requirement to decrease racial and ethnic disparities, a critical provision ensuring that all children will be treated fairly and equitably by our legal system. The bill also promotes the use of alternatives to incarceration; supports the implementation of trauma-informed, evidence-based practices; calls for the elimination of dangerous practices in confinement, including eliminating the use of restraints on pregnant girls; improves conditions and educational services for incarcerated youth; focuses on the particular needs of special youth populations, such as trafficked youth and Tribal youth; increases local control in delinquency prevention programming (Youth PROMISE grants); and increases accountability. The legislation also includes a two-year reauthorization of the Runaway and Homeless Youth Act (RHYA).

While the JJDP reauthorization was the biggest victory of the year, there were several other pieces of legislation aimed toward protecting youth that moved during the 115th Congress. The Youth Medicaid Protection Act was included in H.R. 6, the “SUPPORT for Patients and Communities Act,” which was signed into law on October 24, 2018.<sup>3</sup> It requires states to suspend, but not terminate, Medicaid for youth (up to 21) who are incarcerated and ensures they will have access to Medicaid upon release if they are still eligible. This helps ensure any treatment youth are receiving while incarcerated won’t be disrupted while they reapply for Medicaid. H.R. 6896, the “United States Parole Commission Extension Act of 2018,” was signed into law on October 31, 2019 and includes a critical update to the Prison Rape Elimination Act (PREA). The changes made by H.R. 6896 will now require all certified PREA auditors to be evaluated in accordance with the PREA Auditor Handbook, and the PREA Management Office will be required to establish a system for assigning auditors to Federal, state, and local facilities.<sup>4</sup> Previously, facilities were able to choose their own auditors. These changes will help to ensure Federal, state, and local facilities are implementing the protections required by PREA to protect the health and safety of incarcerated people, including youth.<sup>5</sup> The House also passed H.R. 68, Tiffany Joslyn Juvenile Accountability Block Grant Program Reauthorization Act of 2017.<sup>6</sup> This bill, whose last authorization lapsed in 2009, updates the Juvenile Accountability Block Grant (JABG) to reflect current research and practice. While the Senate ultimately did not take up the bill, its passage in the House was a step in the right direction. In fact, the House recently again passed a bill to reauthorize the JABG program in the 116th Congress,<sup>7</sup> setting the stage for an early victory in the new Congress for our nation’s young people.

While much progress was made, we still have a long way to go to promote safe communities, to ensure the welfare of our children, and to guarantee a fair and equitable justice system. Although the number of juvenile arrests accounts for only 9 percent of the nation's crime<sup>8</sup> and has declined nearly 59 percent between 2008 and 2017,<sup>9</sup> police still made nearly 810,000 juvenile arrests in 2017;<sup>10</sup> juvenile courts handled nearly 851,000 delinquency cases in 2016;<sup>11</sup> and an estimated 75,900 youth were prosecuted in the adult criminal justice system in 2015.<sup>12</sup> Despite a steady drop in juvenile incarceration and out-of-home placements over the past few decades, there are still far too many young people being placed away from home who could be helped more effectively in their own communities. The most recent data tell us that on any given day, just over 45,000 young people were confined in juvenile facilities,<sup>13</sup> and approximately 1 in 10, or 4,700 youth were held in adult jails and prisons.<sup>14</sup>

Current juvenile justice policies and practices, such as charging and sentencing youth as adults and incarcerating children for violating court orders related to status offenses, 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. While many state legislatures have taken steps to address these inequities, problems persist.<sup>15</sup> Across the country we see policies and practices that exacerbate racial and ethnic disparities; discriminate against lesbian, gay, bisexual, transgender, and queer (LGBTQ) youth; lack sound culturally appropriate trauma-informed screening, assessment and care for mental health and drug treatment services; and apply excessively harsh sanctions for minor and nonviolent adolescent misbehavior. They subject youth to institutional confinement that is inhumane and counterproductive.<sup>16</sup> They fail to filter out youth whose primary issues relate to mental illness or disability. They allow children to be transferred to the adult system, where they may be required to serve decades in an adult prison. As the updates to the JJDPA are implemented by states, we hope to see these problems addressed. However, this will not happen overnight, and investment from the Federal government will be one key to success.

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.<sup>17</sup> 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 their homes and communities whenever possible.<sup>18</sup> **As the past 16 years has shown us, we can safely reduce youth incarceration, and arrests can continue to fall.**

Research over the past 25 years has increased our understanding of what works and how to best approach juvenile delinquency and juvenile justice system reform. As jurisdictions across the country continue to implement promising reforms, the 116<sup>th</sup> Congress has the opportunity and responsibility to support and bolster these changes and should begin by focusing on the following six priority areas:

- 1) Establish a Positive Vision for Juvenile Justice Reform
- 2) Ensure Developmentally Appropriate Responses to Justice-Involved Youth
- 3) Reduce Reliance on Detention and Incarceration and Invest in Communities
- 4) Ensure Fairness and Equity for Justice-Involved Youth

- 5) Ensure Safety for Justice-Involved Youth
- 6) Help Youth Successfully Reenter Their Communities

## I. Establish a Positive Vision for Juvenile Justice Reform

If youth are to realize their full potential, society must invest in supports to families and communities that promote child and family wellness, such as quality education, healthcare, proper nutrition, recreation, employment, spiritual life, and access to basic infrastructure, such as transportation, emergency services, and housing. Research has shown us that youth respond best to services that are asset- and developmentally-based, trauma-responsive, focused on opportunities, resources, coaching, and supports so that youth can develop the competencies they need to mature and become well-adjusted adults.<sup>19</sup> While most reform falls under the purview of states, Tribes, and local governments, the Federal government can still play a key role in supporting state juvenile justice systems.<sup>20</sup>

Going forward, Congress must provide the clear direction and resources needed to facilitate reform in all States, Tribal governments, 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, Indian Tribes, and U.S. territories 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 opportunity to live safe, healthy, and fulfilling lives.

### *Recommendations for the 116<sup>th</sup> Congress*

#### **Reauthorize the Juvenile Accountability Block Grant**

The Juvenile Accountability Block Grant (JABG) program, authorized under the Omnibus Crime Control and Safe Streets Act of 2002, is designed to help reduce juvenile offending by supporting the implementation of graduated sanctions and positive enforcements. 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 2014.<sup>21</sup>

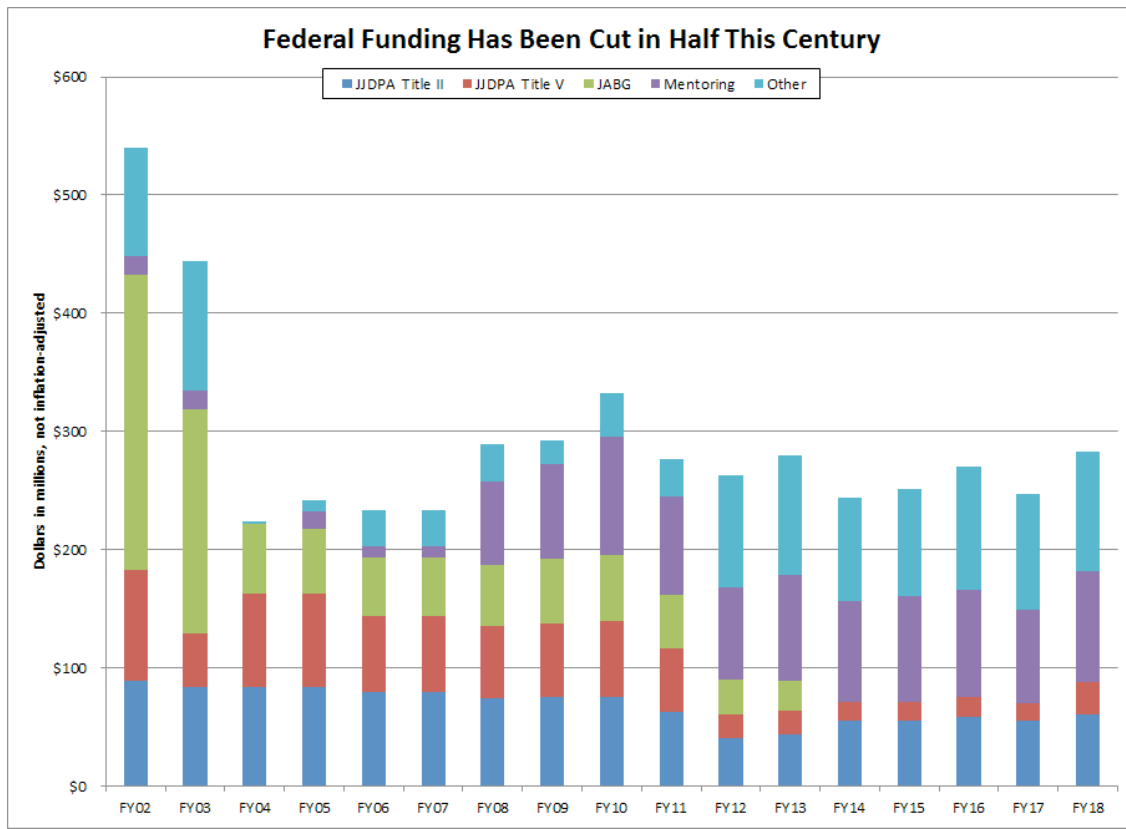
During the 115th Congress, the House passed H.R. 68, Tiffany Joslyn Juvenile Accountability Block Grant Program Reauthorization Act of 2017.<sup>22</sup> H.R. 68 allocated \$30 million per year for five years to JABG, but did not pass in the Senate. This year, JABG, H.R.494, has already passed the House at the \$30 million authorization level.<sup>23</sup> We urge the Senate to pass this bill and restore funding for this important grant program.

#### **Restore and Increase Funding for the Juvenile Justice and Delinquency Prevention Act and Other Research-Driven Reforms**

Despite a universally recognized need to further reduce delinquency and improve juvenile justice systems, federal appropriations for key juvenile justice programs have steadily declined over the last 15 years, and only in the last couple of fiscal years has this decline

slowed and started to show signs of recovery.<sup>24</sup> Overall, Federal funding available to support implementation of the Juvenile Justice and Delinquency Prevention Act (JJDPA) and other state and local reforms has been cut nearly in half since the law was last reauthorized in 2002 from \$547 million in fiscal year 2002 down to \$283 million in fiscal year 2018.<sup>25</sup>

Now that the law has been reauthorized, 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. These are relatively modest, targeted Federal investments in state, tribal, 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. While comprising less than 5 percent of most state investments in juvenile justice, a 94 percent participation rate in the JJDPA demonstrates state, tribal, and U.S. territory buy-in to the Federal law. Congress should fully fund the JJDPA as authorized by the Juvenile Justice Reform Act of 2018, which authorizes \$176 million for Titles II and V of the Act every year through 2023.<sup>26</sup>



## ACT4JJ Juvenile Justice Federal Funding Chart

	<u>JJDP</u> <u>Title II*</u>	<u>JJDP</u> <u>Title V**</u>	<u>JABG</u>	<u>Mentoring</u>	<u>Other</u>	<u>Total</u>
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
FY16	\$58	\$17.5	\$0	\$90	\$104.7	\$270.16
FY17***	\$55	\$14.5****	\$0	\$80	\$97.5	\$247
FY18	\$60	\$27.5*****	\$0	\$94	\$101	\$282.5
<b>% Difference since last JJDP reauth</b>	<b>-32.4%</b>	<b>- 70.8%</b>	<b>-100%</b>	<b>487.5%</b>	<b>10.4%</b>	<b>-48.3%</b>

All sums reported are in millions.

\* Since FY 2017, \$500,000 of Title II funding has been earmarked for emergency planning in juvenile detention facilities.

\*\*Title V sums have been earmarked for specific programs since FY 2015.

\*\*\*This sum is earmarked as follows: \$4 million for gang and youth violence education, prevention and intervention, and related activities; \$500,000 for an Internet site providing information and resources on children of incarcerated parents; \$2 million for competitive grants focusing on girls in the juvenile justice system; and \$8 million for community-based violence prevention initiatives, including for public health approaches to reducing shootings and violence.

\*\*\*\* Includes sums allocated for juvenile justice in the FY 2018 omnibus appropriations legislation, which runs from March 23, 2018 through September 30, 2018.

\*\*\*\*\*This sum is earmarked as follows: \$5 million for the Tribal Youth Program; \$4 million for gang and youth violence education, prevention, and intervention; \$500,000 for an Internet site providing information and resources on children of incarcerated parents; \$2 million for girls in the juvenile justice system; \$8 million for community-based violence prevention initiatives, including for public health approaches to reducing shootings and violence; and \$8 million for an opioid-affected youth initiative.

### **Increase Cross-System Collaboration Between Juvenile Justice & Child Welfare Systems**

Many youth in both the juvenile justice and child welfare systems have a history of trauma, mental health conditions, or substance abuse issues that require specialized treatment. Estimates indicate that as many as 55 percent of children in the juvenile justice system have had previous contact with the child welfare system.<sup>27</sup> We support legislation like the 114th Congress' bipartisan Child Outcomes Need New Efficient Community Teams (CONNECT)

Act that seeks to help states identify and respond to the needs of children who come into contact with both the juvenile justice and child welfare systems.<sup>28</sup>

### **Conduct Oversight of the Office of Juvenile Justice and Delinquency Prevention**

In April 2018, the Administration announced plans to shrink the Office of Juvenile Justice and Delinquency Prevention (OJJDP) by 25 percent.<sup>29</sup> In June 2018, Administrator Caren Harp, under the guise of “simplification,” announced plans to vastly reduce states’ data reporting requirements under the core protection of addressing racial and ethnic disparities.<sup>30</sup> In July 2018, the Administration rescinded seven pieces of guidance on the implementation of the JJDPA:

- OJJDP Memorandum re Status Offenders and the JJDPA (March 17, 2011).
- OJJDP Memorandum re Status Offenders and the JJDPA (October 20, 2010).
- Revised Guidance on Jail Removal and Separation Core Requirements (June 17, 2014).
- Disaggregating MIP Data from DSO and/or Jail Removal Violations: OJJDP Guidance for States, 2011.
- OJJDP Policy Guidance for Nonsecure Custody of Juveniles in Adult Jails and Lockups; Notice of Final Policy.
- OJJDP Guidance Manual: Audit of Compliance Monitoring Systems.
- OJJDP Disproportionate Minority Contact Technical Assistance Manual, Fourth Edition, 2009.<sup>31</sup>

In addition to the rescinded guidance, several key resources have been removed for OJJDP’s website, including its policy guidance on girls in the juvenile justice system and its policy guidance on engaging families and youth in the juvenile justice system.<sup>32</sup> Following the overwhelming and bipartisan support for reauthorization of the JJDPA in the prior Congress, the current Congress must investigate the extent to which OJJDP leadership is fulfilling its mission to provide national leadership on the provision of juvenile justice.

## **II. Ensure Developmentally Appropriate Responses to Justice-Involved Youth**

In 2013, the National Research Council (NRC), part of the National Academy of Science (NAS), published a report, *Reforming Juvenile Justice: A Developmental Approach*.<sup>33</sup> In a follow up to the report, the NRC published guidance for the Federal government to develop and implement a plan for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to support a developmental approach to juvenile justice reforms.<sup>34</sup> As the guidance notes, “[t]aking a ‘developmental approach’ to juvenile justice [is] seen as embracing policies and practices at every decision point, and by every actor or participant, that are informed by, and compatible with, evolving knowledge about adolescent brain development with research evidence on the effects of juvenile justice interventions.”<sup>35</sup>

Research has shown that adolescents differ from adults in three important ways. Young people are: “1) less able to regulate their own behavior in emotionally charged contexts, 2) more sensitive to external influences to their own behavior such as the presence of peers and the immediacy of rewards, and 3) less able to make informed decisions that require long-term



consideration.”<sup>36</sup> The promise of a system that takes a developmentally appropriate response and helps youth who have erred to get back on track is at direct odds with the practice of placing youth in the adult criminal justice system where they are exposed to harsh sentencing and conditions of confinement. Youth tried as adults suffer lifelong consequences from their experience with adult court, and are often denied employment and educational opportunities.<sup>37</sup> Youth incarcerated after being tried in adult court are also more likely to be rearrested and rearrested sooner with more serious charges.<sup>38</sup> The adult criminal justice system cannot meet the developmental needs of youth, exposes youth to a wide array of physical and psychological harms, and contributes to increased recidivism. Congress should provide strong leadership for states to treat youth in a developmentally-appropriate manner with a focus on prevention efforts to ensure at-risk youth remain out of the justice system.

### *Recommendations for the 116<sup>th</sup> Congress*

#### **Support Developmentally Appropriate Police-Youth Interactions**

A 2015 report by the International Association of Chiefs of Police notes that nationally between 4 to 5 million youth ages 16 to 19 have face-to-face encounters with police each year, and these estimates do not include those children under 16 years of age.<sup>39</sup> These estimates also do not include the millions of children who experience police encounters simply by attending their public school, due to the major increase in the placement of school-based law enforcement officers in elementary, middle, and high schools throughout the nation.

The May 2015 report by the President’s Task Force on 21<sup>st</sup> Century Policing further expresses the necessity of a developmental approach to law enforcement’s interaction with juveniles.<sup>40</sup> Recommendation 4.6 from the report states “Communities should adopt policies and programs that address the needs of children and youth most at risk for crime or violence and reduce aggressive law enforcement tactics that stigmatize youth and marginalize their participation in schools and communities.” Recommendation 4.7 emphasizes the importance of prioritizing youth leadership: “Communities need to affirm and recognize the voices of youth in community decision making, facilitate youth-led research and problem solving, and develop and fund youth leadership training and life skills through positive youth/police collaboration and interactions.” And includes the specific action item: “Communities and law enforcement agencies should restore and build trust between youth and police by creating programs and projects for positive, consistent, and persistent interaction between youth and police.”<sup>41</sup>

Congress should support local law enforcement efforts in states to develop a comprehensive policy concerning police-youth interactions by providing incentive grants to develop and support such policies. This comprehensive “Youth Policy” would ensure police-youth interactions are informed by principles of child and adolescent development, an understanding of juvenile specific law, and a commitment to positive role-modeling and relationship building between law enforcement and youth consistent with procedural justice, and community, problem-oriented, and bias-free policing. Congress should also ensure funding for law enforcement, including funding through the Office of Community Oriented Policing Services, includes training on adolescent development.

### **Create Incentives for States to 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. State legislatures have taken note of these studies and acted accordingly. Only four states continue to set their age of criminal responsibility below 18: Georgia, Michigan, Texas, and Wisconsin.<sup>42</sup> In 2018, Vermont also became the first state to set its juvenile jurisdiction age above 18.<sup>43</sup> States have also passed legislation to raise the minimum age at which youth can be transferred to the adult criminal justice system, otherwise known as “raising the floor.”<sup>44</sup> In 2015, Connecticut raised the lower age from 14-years-old to 15-years-old.<sup>45</sup> Kansas raised the minimum age at which youth can be prosecuted as adults from 12-years-old to 14-years-old, and California raised it from 14 or 15 to 16-years-old.<sup>46</sup> In addition to creating a presumption that youth under 21 remain in juvenile facilities, New Jersey also raised the minimum age that a youth may be considered for mandatory transfer to the adult system from 14-years-old to 15-years old.<sup>47</sup>

Congress should provide strong leadership for states to reduce, and eventually eliminate, their harmful and dangerous reliance on trying youth as adults. Last Congress’ Record Expungement Designed to Enhance Employment Act of 2017 (REDEEM Act) would have incentivized states to establish age 18 as a floor for original jurisdiction in adult criminal courts.<sup>48</sup> We call on the Congress to reintroduce and pass the provisions on the age of adult court jurisdiction and to create incentives to encourage States to raise the extended age of juvenile court jurisdiction to at least the age of 21.

### **Support the Removal of Youth Charged as Adults from Jails**

The Juvenile Justice Reform Act closes a critical loophole in the jail removal provision of JJDPA by calling on states and localities to remove youth who are charged as adults from adult jails pretrial. Previously, the JJDPA only prevented minors facing delinquency charges from being held in adult jails, leaving youth charged as adults vulnerable to the dangers and shortcomings of adult jails, a system not designed for youth, nor their safety. Under the reauthorized statute, youth held in adult jails—including those charged as adults<sup>49</sup>—must be removed to juvenile detention centers within three years of enactment of the new law. The definition of “adult” in the new statute is tied to each state’s age of criminal responsibility and extended age of jurisdiction.<sup>50</sup>

A little over half of the states and Washington, D.C. already permit youth charged as adults to be housed in juvenile facilities. There has been considerable movement in advancing these reforms at the state and local level over the past decade; however, many states will need to pass legislation in order to come into compliance with the law.<sup>51</sup> We urge Congress to exercise its oversight power to ensure the Office of Juvenile Justice and Delinquency Prevention is enforcing compliance of this new provision of the JJDPA. Further, Congress should ensure it is providing full funding of Title II of the JJDPA so that states have funding assistance to implement new laws.

### **Eliminate Life Without the Possibility of Parole or Release Sentences for Children Through the Use of a Judicial Review Process**

In light of the Supreme Court's decision in *Roper, Graham, Miller, Montgomery, and J.D.B.*, 21 states have eliminated the use of life without parole or release sentences for children, including Vermont, Massachusetts, Pennsylvania, New Jersey, Delaware, West Virginia, Kentucky, Iowa, Arkansas, Kansas, Texas, North Dakota, South Dakota, Wyoming, Utah, Colorado, Nevada, California, Washington, Alaska, and Hawaii.<sup>52</sup> 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.<sup>53</sup> 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.<sup>54</sup> U.S. law continues to remain in violation of both the *Graham* and *Miller* Supreme Court decisions.

We urge Congress to 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 the 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 individual's counsel; and (11) any other mitigating factors or circumstances.

During the 115th Congress, both the House and the Senate introduced legislation that would have ended life-without-parole and de facto life sentences for youth. H.R. 6011 would have provided the opportunity for a sentence to be reviewed by a judge after a person convicted for a crime committed before she or he was 18 after they had served a minimum of 20 years.<sup>55</sup> A similar provision was contained in S. 1917, the Sentencing Reform and Corrections Act.<sup>56</sup> We urge Congress to introduce and pass similar legislation in the 116th Congress.

### **III. Reduce Reliance on Detention and Incarceration & Invest in Communities**

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. Adolescent development specialists

and social scientists have also amassed extensive research showing how over-reliance on incarceration harms youth. It affects their ability to finish school, pursue higher education, seek employment, and stay out of trouble. Put simply, overly punitive policies that lead to the incarceration of more young people do not work to lower delinquency or prevent reoffending. One of the most harmful, ineffective and expensive forms of incarceration is the youth prison, the signature feature of nearly every state's juvenile justice system. Out-of-home confinement for a young person in the United States can exceed \$100,000 per year.<sup>57</sup> While youth incarceration has dramatically decreased over the past two decades, almost all states still rely on these costly institutions and the harmful approach they embody. Nationally, 78 percent of out-of-home placements are operating under capacity, including facilities that are built to house no more than 10 youth at one time,<sup>58</sup> this is a positive sign and call to action. Instead of sustaining these failed institutions, they should be consolidated and closed, resulting in tens of millions of dollars that could be redirected toward community-based, non-residential alternatives to youth incarceration, and other youth-serving programs.

In October 2016, the National Institutes of Justice, in collaboration with Harvard University and the Annie E. Casey Foundation, released *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model*, which explores recent research in developmental psychology and widespread reports of abuse in juvenile facilities and recommends that the current youth prison model should be replaced with community-based programs and small, home-like facilities that provide age-appropriate rehabilitation services.<sup>59</sup> And the public agrees. Public opinion polls find that taxpayers overwhelmingly favor paying for prevention, education, and rehabilitation over prosecution and incarceration of youth who are adjudicated delinquent and that youth should be treated different than adult offenders.<sup>60</sup>

Congress should embrace this approach and enact policies that support state efforts to dismantle the high-cost and ineffective youth prison model, replacing it with a continuum of culturally relevant, gender-responsive, developmentally appropriate, strength-based services, supports, and opportunities for youth and families in the communities most impacted by youth incarceration as alternatives to out-of-home placements and youth prisons. The 115th Congress took a step in this direction with the reauthorization of the Juvenile Justice Reform Act (JJRA). The JJRA significantly expands the types of delinquency prevention programs that qualify for funding under Title V, allowing for a broader, more holistic approach to addressing the needs of youth who have been in contact with the justice system and preventing delinquency.

In the rare instances when youth must be in out-of-home placement, they should be placed in short-term, culturally competent, therapeutic environments that will address youth trauma and be of maximum service to youth. Rather than the congregate care institutions designed for adults, youth should be confined in small, home-like settings where their normal development, education, family connections, and peer supports are disrupted as little as possible. Every effort should be made to eliminate the potential for trauma caused by institutionalization.

## *Recommendations for the 116<sup>th</sup> Congress*

### **Invest in Delinquency Prevention**

Title V of the JJDPDA is the original, and still one of the only, federal programs specifically designed to prevent delinquency at the local level, yet funding for delinquency prevention under the JJDPDA has decreased by more than 70 percent since 2002.<sup>61</sup> Further, over the last few years, Congress has earmarked for use in a limited number of prevention programs, limiting states' abilities to best serve their youth. The updates made by the Juvenile Justice Reform Act now provide 29 different categories of delinquency prevention programs that will now be eligible for Incentive Grants for Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education (Youth PROMISE) Grants. In addition to the previous categories covered under Title V, new categories include home visits, family stabilization programs, adoption assistance, parenting skills training, conflict resolution training, summer job programs, restorative justice programs, and after school programs. These categories allow innovative, evidence-based and promising programs to access funding that had previously been out of reach and will help to keep youth out of the justice system and in their communities.

States across the country have seen great success when they invest in their young people. For example, through the Chicago Center for Youth Violence Prevention (Illinois) and the Youth Violence Prevention Center Denver (Colorado), cities have collaborated with communities to implement evidence-based individual and family-level prevention programs.<sup>62</sup> The Center for Youth Violence Prevention Strategies helped reduce homicides in the Humboldt Park Neighborhood of Chicago by 17 percent in a 5 year period.<sup>63</sup> These programs will only be successful if Congress provides the requisite funding needed to make real investments. We urge Congress to restore funding to this critical component of the JJDPDA.

### **Support State and Local Efforts to Invest in Community-Based Alternatives to Residential Placement**

It can cost hundreds of thousands of dollars a year to securely confine a young person.<sup>64</sup> Many policymakers draw a sharp distinction between youth who commit violent and non-violent offenses. However, research shows that in order to sustainably reduce youth violence, recidivism and racial disparities, we must change laws, policies, and practices that prohibit young people involved in a violent crime from taking advantage of effective interventions in a community setting. New research shows that victims of crime support these approaches.<sup>65</sup> Often this money could be better spent on less costly, more effective alternatives. States as divergent as New York, Illinois, California, Arkansas, Ohio, and Texas, as well as the District of Columbia have undertaken initiatives to reduce their over-reliance on wasteful, unnecessary, and often dangerous out-of-home placement of children.<sup>66</sup> 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.<sup>67</sup>

Congress should provide fiscal incentives for states to accelerate decarceration efforts, close youth prisons, and repurpose already closed institutions. The past two decades have generated evidence and examples from the states that juvenile justice systems can reduce the

use of confinement and out-of-home placement, and generate better public safety and youth development outcomes.<sup>68</sup> Fiscal scarcity – particularly since the 2008 downturn – accelerated state and local approaches to meeting a young persons’ need in the community because they could use less expensive, and more effective options than placing a youth out-of-the-home or in a confined space. While a catalyst for change, fiscal scarcity has also meant that community-based approaches have not been funded at-scale. It is more effective, and less expensive, to invest in community-based solutions to youthful misbehavior than to push young people into the justice system. Congressional leaders should support a positive vision for investing in youth, rather than locking them up.

### **Ensure That Youth Are Not Detained while Awaiting Housing Placement or While Awaiting Hearings in Immigration Proceedings**

Youth who are not charged with a crime that threatens public safety, or those who have completed their sentence, should not be held in a detention facility. This includes youth who are seeking asylum in the United States as unaccompanied minors and those fleeing violence in their home country with their families. While finding appropriate foster care placement for children poses significant challenges to state agencies, resource limitations and administrative difficulties do not justify the unnecessary exposure to potentially traumatizing experiences that these children face. Many youths have a history of adverse childhood experiences or underlying mental health issues and detention can exacerbate underlying trauma.<sup>69</sup> Youth placed in these facilities are at heightened risk for physical and sexual abuse.<sup>70</sup> They may also be subjected to things like physical restraints, chemical agents such as pepper spray, and solitary confinement.<sup>71</sup> Further, young people entering the foster care system, or who are experiencing foster home disruption, have often already had their educational experiences significantly disrupted. Placing them in detention centers outside of any community, never mind their own community, will only increase the severity of these disruptions.<sup>72</sup>

Regardless of the difficulties state agencies face regarding placement, they should not use detention centers as a dumping ground for foster youth. By unnecessarily institutionalizing young people who have committed, at worst, minor offenses, these states are essentially manufacturing recidivism. Studies have shown that prior incarceration is the most accurate predictor of future incarceration.<sup>73</sup> Youth who are not charged with a crime that threatens public safety should not be incarcerated.

Similarly, youth should not be detained pending immigration proceedings. Often, youth are held on the basis of suspected gang membership with seemingly no evidentiary threshold. Despite the lack of statistical evidence, there is a default association between young Latinx and MS-13. The explanation for this association rests entirely on skin color and nation of origin. Detention, and the fear of detention, both drive a wedge between young Latinx and local law enforcement. This dynamic clearly frustrates legitimate law enforcement objectives, and the end result leaves communities less safe.<sup>74</sup> Furthermore, the detained youth are subjected to all the negative impacts of detention discussed above. We urge Congress to take action to ensure that young people are not detained while awaiting housing placement, or while awaiting hearing in immigration proceedings.

### **Eliminate the Valid Court Order (VCO) Exception from the Juvenile Justice and Delinquency Prevention Act**

While the JJDP Act currently prohibits detaining youth for status offenses, like truancy and running away from home, there remains a valid court order (VCO) exception to the Deinstitutionalization of Status Offenders (DSO) core requirement.<sup>75</sup> 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.”<sup>76</sup>

The Juvenile Justice Reform Act of 2018 made important changes to this provision to ensure the VCO exception is truly an exception rather than a rule. Under the new law, youth who are found in violation of a valid court order from an underlying status offense may be held in detention, for no longer than seven days, if the court finds that such detention is necessary and enters an order containing the following: 1) the valid court order that has been violated; 2) the factual basis for determining that there is reasonable cause to believe that the status offender has violated such order; 3) findings of fact to support a determination that there is no appropriate less restrictive alternative available to placing the status offender in such a facility, with due consideration to the best interest of the juvenile; 4) the length of time, not to exceed seven days, that the status offender may remain in a secure detention facility or correctional facility, and includes a plan for the status offender's release from such facility. Such an order may not be renewed.<sup>77</sup>

Even with these protections, evidence shows that detaining and incarcerating non-delinquent youth who have engaged in status offense behaviors is counter-productive: it is costlier and less effective than home and community-based responses. It interrupts education, pulls children away from family and community, and stigmatizes youth.<sup>78</sup> Research clearly shows that once detained, youth are also more likely to commit unlawful acts, potentially leading to “deeper” involvement in the system.<sup>79</sup> 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.<sup>80</sup> Although judges, court personnel, and advocates are working hard to effectively address the VCO exception on the state level, its mere existence in the JJDP Act 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. Until the exception is eliminated, we also urge Congress to require OJJDP to make public state data on use of the VCO, disaggregated by race, ethnicity, and gender.

### **Support Family Engagement**

Recognizing the integral role families play in holding the juvenile justice system 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. This includes families of immigrant 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. This is particularly important in light of the fact that the Office of Juvenile Justice and Delinquency Prevention removed its policy guidance on engaging families and youth in the juvenile justice system in 2018.<sup>81</sup> Congress should also create incentives for Statewide Family Engagement Centers (SFECS) to integrate support services for families involved in

the justice system. Finally, while the Juvenile Justice Reform Act does now state that states must engage family members in the design and delivery of juvenile delinquency prevention and treatment services, we recommend that Congress explicitly call for the inclusion of family members on JJDP State Advisory Groups (SAGs).<sup>82</sup>

### **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. Research has demonstrated that 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. Zero tolerance disconnects students from their school and criminalizes youth, particularly youth of color, LGBTQ youth, and youth with disabilities for behaviors and infractions that can and should be prevented and addressed within schools without pushing youth out of school or involving law enforcement and justice system referrals.<sup>83</sup>

Additionally, reliance on law enforcement in schools to maintain discipline can result in youth ending up in the juvenile and criminal justice systems for matters more appropriately handled by school personnel. As the presence of law enforcement and school resource officers (SROs) in schools has increased, the percentage of arrests and referrals to the juvenile justice system from schools, generally, have also increased.<sup>84</sup> The presence of law enforcement in schools has effects that transform the school from an academic environment to a site of criminal law enforcement. Further, students are often arrested for normal childhood behavior. In at least 22 states, it is now a crime to disrupt school, and SROs have arrested students for things like wearing too much perfume or burping repeatedly.<sup>85</sup> 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.<sup>86</sup>

Recent incidents of violence in schools has also led Congress to seek quick solutions that may harm more students rather than keep schools safe. The Stop School Violence Act was passed by Congress as part of the Fiscal Year 2018 omnibus appropriations bill. The bill authorized \$75 million annually for state and local schools to fund training to prevent student violence; to develop and operate an anonymous reporting system for threats of school violence; to develop and operate school threat assessment and intervention teams; to coordinate with local law enforcement; and to invest in any additional measures to improve school security.<sup>87</sup> Not only does the law's anonymous reporting and threat assessment systems lack due process protections and adequate data collection, but it is also vague in its allowance of uses of funding, potentially allowing federal funding to be used for SROs and "hardening" measures such as the use of metal detectors, turning schools into prison-like facilities rather than nurturing learning environments. In addition, the Administration's decision to rescind the 2014 Department of Justice and Department of Education Joint Guidance on Discipline as part of the Supportive School Discipline Initiative, ignores the research on adolescent brain development, the effects of trauma, and the dangers of institutional and implicit bias that disproportionately and unnecessarily direct young people away from schools and into the justice system.<sup>88</sup>



Schools should instead be encouraged to invest more resources in school counselors, school psychologists, 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 adopt a more trauma-informed approach and seek to mitigate the emotional and behavioral effects of adverse childhood experiences (ACEs) and chronic environmental stressors on vulnerable students. Effective school-justice partnerships should include Memorandums of Understanding (MOU) that clearly articulate a limited role for the law enforcement officers in schools, require trauma-sensitive and mental health awareness training, and establish explicit protocols for interactions with students and referral to services where necessary.<sup>89</sup> All school employees should be offered training to better identify mental health issues that can trigger different behaviors and practice de-escalation techniques to diffuse conflict.

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**

Studies have shown that as many as 70 percent of youth in juvenile detention centers 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.<sup>90</sup> Juvenile justice agencies are often ill-equipped to manage the mental health and substance abuse needs of youth effectively, yet are often the first line of care for them in mental and behavioral health. 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.<sup>91</sup>

Congress advanced many important proposals to help improve access to mental health and substance abuse services during the 115th Congress, including passage of H.R. 6, the SUPPORT for Patients and Communities Act, which requires states to suspend rather than terminate Medicaid coverage when youth enter juvenile facilities.<sup>92</sup> The First Step Act bans the use of solitary confinement for youth in Federal custody, and the Juvenile Justice Reform Act of 2018 provides comprehensive services and supports for young people, including improved screening, diversion, assessment, and treatment for mental health and substance abuse needs.<sup>93</sup>

Congress should continue to advance proposals to help identify behavioral health (i.e. mental health and substance abuse disorders) needs early, including exposure to adverse childhood experiences (ACEs), mental illness and substance abuse. Additionally, Congress should support demonstration projects focusing on the routine use of trauma screening practices within the juvenile justice system, including at the initial point of referral for delinquency complaints, to ensure informed targeting of effective trauma interventions for these youth

and their families. Congress should also expand access to innovative, culturally competent, and evidence-based services and treatment, and to improve the quality of those services.

Further, 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, prosecutors, judges, probation officers, and other decision makers.

### **Continue to Support Programs and Education on Youth Exposure to Violence and Appropriate Responses to Adverse Childhood Experiences**

An individual's health, educational success and future likelihood of becoming a victim or perpetrator of crime are all directly influenced by his or her experiences with violence and trauma as a child (also known as adverse childhood experiences or "ACES"). More than half of American children have witnessed or experienced violence directly, and new brain science increasingly points to long-lasting and at times devastating outcomes from the trauma that results. Importantly, violence can be prevented, and early identification and help for children who have experienced violence and trauma can dramatically increase the likelihood that they will grow up healthy, avoiding addiction and mental illness, finishing school, and never entering the juvenile justice system.

The Department of Justice has administered a small but deeply impactful program since 2010 to help communities address children's exposure to violence and test the most effective strategies for reducing crime and increasing awareness about how to heal traumatized children. One recent outcome of the "Defending Childhood" initiative was training to help law enforcement agencies engage with children who may have experienced a violent incident, and it has also funded science-based trainings on how trauma impacts brain development and what adults can do to help children.<sup>94</sup> While many of the interventions identified through the Defending Childhood initiative are eligible for Title V PROMISE grants of the JJDPA, it is critical that the Department of Justice continue to fund this initiative, which connects interpersonal and community violence interventions. The Fiscal Year 2019 omnibus appropriations bill included \$8 million for the Children Exposed to Violence initiative and we would recommend that funding continue. Continued funding would allow this program to expand, so more schools, parents, community-based organizations, and law enforcement agencies could receive training on how to address child trauma and prevent crime and violence.

### **Pass the Runaway and Homeless Youth and Trafficking Prevention Act (RHYTPA)**

An estimated 4.2 million young people ages 13 to 25 experience homelessness annually, of which 700,000 are unaccompanied youth ages 13 to 17.<sup>95</sup> 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 youth experiencing homelessness report a high level of involvement with the justice system. As many as 44 percent of young people experiencing homelessness have spent time in a jail, prison or detention facility.<sup>96</sup> 62 percent of them have been arrested, and 78 percent have had at least one encounter with law

enforcement. Much of this is due to arrests that stem from activities associated with daily survival such as panhandling, loitering, or sleeping outdoors.

LGBTQ youth are at more than double the risk of homelessness compared to non-LGBTQ peers, yet they may face discrimination when seeking needed services.<sup>97</sup> In addition, an estimated 800,000 youth and young adults experiencing homelessness are victims of trafficking, which includes commercial sexual exploitation and labor trafficking.<sup>98</sup>

Runaway and homeless youth programs administered by the U.S. Department of Health and Human Services provide vital prevention, shelter, longer-term housing and services to runaway, homeless, and disconnected youth through three key programs:

- the Basic Center Program (BCP), which provides temporary shelter, counseling, family reunification, and aftercare;
- the Transitional Living Program (TLP), which provides longer-term housing with supportive services, including Maternity Group Homes; and
- the Street Outreach Program, which provides education, treatment, counseling and referrals.

These programs were initially authorized by the Runaway and Homeless Youth Act (RHYA), which was passed as a part of the JJDP in 1974. After being reauthorized as a standalone bill for 30 years, RHYA was reauthorized for two years with the JJDP in 2018. However, vital programmatic improvements to the bill as well as a provision protecting LGBTQ youth from discrimination were not included. In addition, these programs continue to be funded well below the necessary level to ensure the programs are effective. Congress should increase Federal investments in these programs above the most recently appropriated levels. Further, we call on Congress to pass a comprehensive five-year reauthorization of RHYA by passing the Runaway and Homeless Youth and Trafficking Prevention Act (RHYTPA) that will:

- Continue to provide funding for rural, suburban and urban communities to prevent and respond to youth and young adult homelessness;
- Strengthen prevention efforts offered through the Street Outreach and Basic Center programs;
- Enable Basic Center programs to serve youth for 30 days, and Transitional Living Programs to serve youth through age 24;
- Codify comprehensive nondiscrimination protections for youth and young adults accessing services under RHYA;
- Ensure trafficking is prevented and victims are served through outreach, identification, referrals and reporting; and
- Ensure continued studies on the incidence and prevalence of youth and young adult homelessness.

#### IV. Ensure Fairness and Equity for Justice-Involved Youth

It is critical that our justice system operates fairly and equitably to serve all youth. Creating opportunities for youth of color, youth with disabilities, LGBTQ youth, girls, and other

vulnerable populations to grow into healthy, productive adults is not only fair, it is a wise public safety strategy.

It is well-documented that youth of color and youth with disabilities continue to be significantly over-represented in the juvenile justice system at every stage of the process from arrest to secure detention and confinement to transfer into the adult system. In 2015, African-American youth were 6.1 times as likely to be detained as White youth, Native American youth were 3 times as likely to be detained, and Latino youth were twice as likely as their White counterparts to be detained.<sup>99</sup> Despite the fact that Black youth only constitute 14 percent of the total youth population, they constitute 47.3 percent of the youth transferred to the adult court by juvenile court judges.<sup>100</sup> Youth of color are often treated more harshly than White youth, even when charged with the same category of offense.<sup>101</sup> In fact, while the number of youth involved in the juvenile justice system has shrunk overall over the past decade, the racial and ethnic disparities have not improved and, for some decision points in the system, have actually increased, demonstrating a need for intentional and deliberate attention on ending implicit and explicit biases.<sup>102</sup> LGBTQ youth are also over-incarcerated, particularly for misdemeanor crimes and/or status offenses.<sup>103</sup> These youth often have experienced high levels of trauma which need to be addressed, not punished.

### *Recommendations for the 116<sup>th</sup> Congress*

#### **Ensure Strong Implementation of the Updates to the Racial and Ethnic Disparities (RED) Core Protection**

Research has documented that youth of color are disproportionately overrepresented and subject to more punitive sanctions than similarly-charged/situated White youth at all levels of the juvenile justice system.<sup>104</sup> The Juvenile Justice Reform Act of 2018 (JJRA) took this research into consideration and strengthened the JJDP's Disproportionate Minority Contact (DMC) core protection. Previously, the law merely required states to "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. Under the new law, which changes "DMC" to "Racial and Ethnic Disparities" or "RED," gives clear direction to states and localities to plan and implement data-driven approaches to ensure fairness and reduce racial and ethnic disparities, to set measurable objectives for disparity reduction, and to publicly report such efforts.

Prior to the passage of the JJRA, OJJDP announced that it would be simplifying compliance requirements for the RED core protection, including decreasing the number of points at which states must measure disparities from 9 points of contact with the justice system to 5, of which a state must only submit data on 4.<sup>105</sup> While addressing racial disparities requires more than data collection, understanding disparities at each contact level allows states to fully understand the problem and develop effective and meaningful plans to reduce racial disparities.

The reforms provided to the RED core requirement should ensure that states are actually taking steps to address disparities within the system; however, we urge Congress to exercise its oversight power to ensure OJJDP is drafting regulations and implementing the changes to this core requirement that embrace the letter and spirit of the new law.

### **Increase Funding and Support for Tribal Youth and Tribal Juvenile Justice Systems**

Congress must take action to ensure that, like all governments, tribal governments have access to flexible and consistent funding sources in order to develop institutions and programs that work to meet the needs of tribal youth. American Indian and Alaska Native children are arrested at a rate of more than two to three times that of other youth and are overrepresented in the juvenile justice system.<sup>106</sup> However, when tribal youth are in state and Federal justice systems, it is almost impossible to track them. As a 2018 GAO report recently found, many states do not report when they have tribal youth in their custody.<sup>107</sup> Additionally, Federal agencies fail to accurately report tribal youth in their custody.<sup>108</sup> As a result, the GAO was not able to truly assess how many tribal youth are in Federal and state juvenile justice systems today. This prevents us from accurately measuring the trends of tribal youth in juvenile justice systems leaving us unable to address their needs.

Federal support is necessary to ensure that tribal youth have access to fair, appropriate and effective justice services. We support increases in funding for tribal juvenile justice and an increase in the authorization level for the Tribal Youth Program. We also ask that legislative efforts include reauthorizing Section 4213(e) and 4212(a)(3) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, which provides preventative services to tribal youth such as emergency shelters, halfway houses, and emergency care, as well as summer youth programs to combat illegal narcotics in Indian Country.

In addition, Congress should enact legislation that 1) requires states to provide notice to the Tribe whose tribal youth comes in contact with their state juvenile justice system allowing the tribal government to provide culturally appropriate services and support; 2) requires the Federal government to track all tribal youth in the justice system; 3) requires that the Federal government ask all youth “what is their tribal affiliation” to accurately track tribal youth in the Federal system; 4) requires states work with Tribes on the design, content, and operation of juvenile justice programs to ensure they are culturally appropriate and meet the needs of tribal youth; and 5) requires reporting on the number of tribal youth in federal incarceration and their tribal affiliation.

### **Ensure Fair Treatment of Youth With Disabilities**

Youth with disabilities represent the highest percentage of any sub-group of individuals in the juvenile justice and adult criminal systems. Studies have found that 65-70 percent of youth in the justice system meet the criteria for a disability, a rate that is more than three times higher than that of the general population.<sup>109</sup> Additionally, at least 75 percent of youth in the juvenile justice system have experienced traumatic victimization, leaving them at-risk for mental health disorders such as post-traumatic stress syndrome.<sup>110</sup> Although the focus is often on individuals with mental health needs, also included in significant numbers are individuals with other disabilities including, but not limited to, sensory, physical, intellectual/developmental, communication and language disorders, Traumatic Brain Injury, and combinations thereof.<sup>111</sup>

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.<sup>112</sup> 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.<sup>113</sup> 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, to assist with data collection and analysis of these cases, and to make certain these youth are treated fairly and humanely when they must be placed out of the home.

### **Ensure Fair Treatment of Immigrant Youth**

Out of the estimated 10.7 million non-citizen immigrants living in America today, approximately one million are children under 18 years old.<sup>114</sup> Many of these youth have come to this country fleeing violence and oppression, carry complex emotional burdens from trauma, and face basic language barriers.<sup>115</sup> As national anti-immigrant rhetoric has escalated to the point of associating immigrants with animals and infestation and equating immigrant youth with gang members, these youthful immigrants have often become caught in the crosshairs of the justice system.<sup>116</sup> Rather than being supported to develop into successful adults, immigrant youth are more often being targeted for arrest, detention, and deportation.

We urge Congress to support policies that uplift all families and further best practices for positive youth development for all youth, regardless of immigration status. Congress should pass legislation to protect the confidentiality of all youth in the justice system, including immigrant youth; avoid detaining immigrant youth; and incentivize states to not use gang databases and to pass legislation to ensure youth in the justice system have access to defense counsel that understand the immigration consequences of juvenile justice system involvement and, where necessary, access to immigration attorneys.<sup>117</sup> Congress should also support and invest in outreach programs, and community and family support services to help immigrant youth deal with trauma, family reunification and social stressors to ensure they feel connected to their new communities.<sup>118</sup> Finally, Congress should exercise its oversight power to examine U.S. Immigration and Customs Enforcement's (ICE) initiatives to arrest and deport unaccompanied minors and their families, and incidents where ICE has falsely accused Latino youth of being affiliated with gangs.<sup>119</sup>

### **Promote Nondiscrimination and Cultural Competence Regarding LGBTQ Youth**

Recent research finds that one in five youth in the juvenile justice system identify as LGBTQ and 85 percent of these youth are youth of color.<sup>120</sup> LGBTQ youth are vulnerable to discrimination, profiling, and mistreatment in the juvenile and criminal justice systems. In fact, LGBTQ youth are twice as likely to end up in juvenile detention; 20 percent of youth in juvenile justice facilities identify as LGBTQ compared to 7-9 percent of youth in general.<sup>121</sup> In their homes, schools, and communities, LGBTQ 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 LGBTQ youth enter the juvenile justice system as a direct result of family rejection.<sup>122</sup> In addition, a recent study in *Pediatrics* found that adolescents who self-identified as LGBTQ were about 50 percent more likely to be stopped by the police than other teenagers.<sup>123</sup> 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.<sup>124</sup> In addition, LGBTQ youth experience victimization in juvenile facilities at higher rates than heterosexual youth. For example, non-heterosexual youth are sexually victimized by other youth in juvenile facilities at 10 times the rate of

heterosexual youth.<sup>125</sup>

Congress should create incentives for states to reduce the inappropriate detention of LGBTQ youth and address decision makers' lack of understanding of this population by: 1) ensuring that JJDP State Advisory Groups (SAGs) include experts on LGBTQ 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;<sup>126</sup> and 4) requiring all programs funded under the JJDP and other OJJDP incentive grants to adopt policies prohibiting discrimination based on actual or perceived sexual orientation, gender identity, and gender expression.

### **Address the Specific Needs of Girls**

As the number of young people in contact with the juvenile justice system has fallen, girls have made up a greater proportion of this overall population. Girls also enter the juvenile justice system through different pathways than boys and have distinct needs. This stems from many factors. Girls' pathways into the juvenile justice system often originate with surviving abuse, especially sexual violence.<sup>127</sup> Girls often enter the system for non-violent and status offenses, such as running away and truancy; behaviors that are responses to trauma and violence. This remains true at the deepest end of the system: half of all girls committed in the juvenile justice system are there on nonviolent charges: technical violations, simple assault, and status offenses.<sup>128</sup> Girls are also arrested for their own victimization; for example, in many states child sex trafficking survivors are arrested on prostitution charges. Trafficking survivors also enter the system on other offenses for behaviors directly related to their being trafficked.<sup>129</sup> Pre-existing trauma is prevalent among girls in the juvenile justice system.<sup>130</sup> Finally, many girls have different physical health needs than boys that must be appropriately considered in juvenile justice facilities, including access to menstrual products and reproductive care.

Unfortunately, juvenile justice systems are too often ill-equipped to address the specific needs of girls. As a result girls often fail to receive the services and support needed to heal from trauma and instead can be re-traumatized by routine processes of the juvenile justice system such as strip searches.<sup>131</sup> Federal policy must address the unique experiences and needs of girls in the juvenile justice system, and we recommend an approach emphasizing ending girls' incarceration, tailoring juvenile justice systems to the needs of girls, adequate data collection and reporting, and appropriations.

Congress and Federal agencies must build from momentum from reforms in the Juvenile Justice Reform Act of 2018 and OJJDP's National Girls Initiative to provide specific, targeted support for local and 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 a state's three-year plan required by Title II of the JJDP. We also encourage Congress to amend Title V of the JJDP 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. This could be particularly effective in meeting girls' needs, based on the low-level and status offenses bringing them into contact with the juvenile justice system. Congress should also pass the Runaway and Homeless Youth and Trafficking Prevention

Act, which would provide counseling and appropriate services to victims of commercial sexual exploitation, diverting survivors of child sex trafficking rather than pushing them into the juvenile justice system.

It is critical that Congress and OJJDP direct states to collect and report additional data, to best inform ongoing programs, interventions, and reforms. The Juvenile Justice Reform Act of 2018 added critical additions to OJJDP reporting requirements, but key areas for additional data collection still exist, including: the number of survivors of trafficking in contact with the juvenile justice system; conditions of confinement that may exacerbate girls' trauma including use of strip searches; the number of parenting youth detained, incarcerated, or in out-of-home placements in the justice system; and the frequency of the use of restraints on pregnant youth in contact with the juvenile justice system. The Department of Justice (DOJ) should collect and include these data points in their annual report to Congress. OJJDP should also work to ensure all data regarding youth justice involvement on a state and national level can be disaggregated by gender, race, and ethnicity.

Finally, we urge Congress to provide strong direction to OJJDP around funds appropriated to address the needs of girls in the juvenile justice system. Congress has approved \$2 million in recent fiscal years for this purpose. However, DOJ's 2019 Program Plan marks a shift in priority, with funds now intended to go to states, rather than non-governmental entities.<sup>132</sup> In order to end the criminalization of vulnerable girls and provide them with needed services and support, it is imperative that Congress continue to appropriate funding for non-governmental entities.

### **Incentivize States to Eliminate Juvenile Justice Fines and Fees**

Across the country, youth and their families, including many in poverty, face monetary charges for a young person's involvement in the justice system. Financial obligations imposed include, fines, administrative court fees, fees for assessments, evaluation and treatment, probation fees, public defender fees, diversion fees, fees for expungement, and charges for the cost of confinement. These costs lead to heightened racial disparities, economic distress, and increased recidivism rates.<sup>133</sup> Congress should pass legislation requiring states to collect data on the use of fines and fees in the justice system. Congress should also incentivize states to eliminate such fines and fees entirely by tying federal funding to the elimination of juvenile fines and fees or by providing grants to states that eliminate these financial obligations.

### **Ensure Fair and Adequate Representation of System-Involved Youth**

Congress should support efforts to ensure that states are meeting constitutional requirements to provide access to quality legal counsel for children in the justice system. The presence of properly resourced, competent attorneys is essential to the integrity of the juvenile justice system. Although it has been 50 years since *In re Gault* extended the right to counsel to juveniles, a series of access issues remain in many parts of the country.<sup>134</sup> In some areas, youth waive their right to counsel, often out of fear that their parents will be charged.<sup>135</sup> In other areas, youth are not meaningfully advised of their right to counsel before being interrogated. In still other places, youth spend days in custody without receiving a lawyer to represent them – with time limits for a prompt probable cause determination tolled for weekends and holidays. And finally, youth in many jurisdictions are represented by attorneys who are too overloaded or under-resourced to provide adequate representation. These



deficiencies have a profound impact in producing racial disparities and unfairness in the system.

Under reforms made to the JJDP by the Juvenile Justice Reform Act of 2018, states must outline a plan to ensure youth have access to publicly supported, court-appointed legal counsel. Further, OJJDP must provide best practices and technical assistance for states regarding the legal representations of children. Congress must fully fund these efforts as required the new law. Congress should monitor and ensure that these deliverables are met.

## V. Ensure Safety for Justice-Involved Youth

In the rare instances when youth pose a serious risk to public safety and need to be in a secure environment, they should not have to endure abusive conditions. Studies by the Bureau of Justice Statistics (BJS) have found that as many as one in ten youth in juvenile facilities report experiencing sexual abuse, with more than one in five non-heterosexual youth reporting such abuse.<sup>136</sup> The National Prison Rape Elimination Commission found that youth were one of the most at risk populations of sexual victimization in adult jails and prisons.<sup>137</sup> Furthermore, youth experience a high level of physical abuses, including use of pepper spray, sexual assaults by staff, hog-tying, shackling, and isolation.<sup>138</sup> 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. Congress should provide strong leadership for states to reduce, and eventually eliminate, their harmful and dangerous reliance on these types of dangerous practices.

### *Recommendations for the 116<sup>th</sup> Congress*

#### **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.<sup>139</sup> 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.

The use of physical restraints and seclusion is an outdated practice, which research continues to demonstrate is at best ineffective and at worst counterproductive and abusive.<sup>140</sup> Many states continue to allow the use of physical restraints and seclusion for juvenile offenders, even when the practices are prohibited in the state's public schools.<sup>141</sup> A 2002 Department of Justice study found that that juveniles who had been in isolation for even a few hours had higher levels of anxiety, depression and paranoia.<sup>142</sup> Furthermore, an OJJDP study found that 62 percent of suicide victims in juvenile correctional facilities were held in solitary confinement at one point and 50 percent had been in solitary confinement at the time of their suicide.<sup>143</sup>

The Federal legislative and executive branches have noted the need to end these practices in public schools. As former Secretary Arne Duncan wrote in a 2012 departmental resource, “there continues to be no evidence that using restraint or seclusion is effective in reducing the

occurrence of the problem behaviors that frequently precipitate the use of such techniques.” Young people in the juvenile justice system should be no different.

The First Step Act bans the use of solitary confinement for youth in Federal custody and the JJDPa requires OJJDP to provide a report on the use of restraints and isolation upon youth held in the custody of secure detention and correctional facilities.<sup>144</sup> Further, under the JJDPa states will now be required to report on their plan to prohibit the use of these harmful practices.<sup>145</sup> However, Congress should take this a step further by disallowing 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 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.<sup>146</sup>

### **Support Prison Rape Elimination Act (PREA) and JJRA Implementation by Removing Youth from Adult Facilities**

Youth in the adult system are at great risk of sexual abuse and suicide when housed in adult jails and prisons. 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. It is estimated that between 30,000 to 60,000 youth are in adult jails or prisons annually.<sup>147</sup> In addition, youth housed in adult jails are 36 times more likely to commit suicide than are youth housed in juvenile detention facilities.<sup>148</sup>

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, Congress has made an effort to ensure youth are removed from adult facilities over the past few years. Under the Prison Rape Elimination Act of 2003 (PREA) Youthful Inmate Standard, youth must be sight and sound separated from adults in adult facilities, and the standard further urges facilities not to resort to the use of isolation in order to comply with the law.<sup>149</sup> Further, the Juvenile Justice Reform Act of 2018 closes a critical loophole in the jail removal provision of JJDPa, by calling on states and localities to remove youth who are charged as adults from adult jails pretrial. Previously, the JJDPa only prevented minors facing delinquency charges from being held in adult jails, leaving youth charged as adults vulnerable to the dangers and shortcomings of adult jails, a system not designed for youth, nor their safety. Under the reauthorized statute, youth held in adult jails, including those charged as adults, must be removed to juvenile detention centers within three years of enactment of the new law.

In order to ensure these reforms are effective, Congress must adequately fund PREA and the JJDPa to ensure nationwide compliance. Previous funding for PREA 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. Congress must also fully fund the JJDPa to ensure states have the assistance they need to remove all youth from adult jails and lockups. Over half the states already allow youth transferred to the adult system to be held in juvenile facilities, but some of those states will need assistance to

actually move transferred youth the juvenile facilities, and other states will need to change their laws.<sup>150</sup> We also encourage Congress to exercise its oversight authority to make certain that states' implementation of these two laws are consistent with the intent to keep individuals in custody safe from sexual victimization and related harms.

## VI. Help Justice-Involved Youth Successfully Reenter Their Community

Approximately 100,000 young people under age 18 leave secure juvenile facilities and return to their communities each year.<sup>151</sup> 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. 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. 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. The Juvenile Justice Reform Act of 2018 sets out, for the first time, requirements for reentry plans for youth who are returning to the community.<sup>152</sup> This is a critically important step to ensure that young people exit the justice system to safe, stable, and secure housing. Planning will be required to begin prior to release and support services should follow the youth home; however, Congress can still do more to ensure long-term success for youth re-entering their communities.

### *Recommendations for the 116<sup>th</sup> Congress*

#### **Increase Funding for the Second Chance Act and the Juvenile Justice and Delinquency Prevention Act to Support Youth Reentry**

Congress recently reauthorized the Second Chance Act (as part of the First Step Act) and the Juvenile Justice and Delinquency Prevention Act.<sup>153</sup> Both laws contain provisions that

improve support for youth reentry. Congress now should robustly fund these laws to ensure ready access to appropriate reentry services for youth at the state and local level. Such services support the successful, long-term 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 that enable them to achieve a lifetime of opportunity and success.

### **Protect Juvenile Records and Reduce Collateral Consequences of Court Involvement**

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.<sup>154</sup> We urge Congress to pass legislation that would improve juvenile record confidentiality, automatically expunge non-violent juvenile offenses of children before they turn 15, and automatically seal nonviolent juvenile offenses that occur after a child has reached the age of Fifteen.

### **Require States to Provide Juvenile Offenders with State-Issued Identification, and Encourage Voter Registration**

In many states, it is still possible for young people to leave state custody without state identification of any kind. Along with voter registration, identification is a key means of reintegration to the community. Ensuring access to identification also advances important Federal priorities, such as easing the ability for young people to pay taxes and access Federal benefits.

The Supreme Court's 1974 decision of *O'Brien v. Skinner* protects the right of certain inmates to vote in elections however it leaves implementation up to local and state jurisdictions.<sup>155</sup> Consequently, the ways in which states comply with the ruling and the effort required to register inmates to vote varies from state to state. One model that can be used is California's 2014 approved law which requires juvenile detention facilities to: (1) identify those housed in the facility who are of age to vote; (2) provide registration to each age-appropriate individual housed in the facility; (3) assist the individual who complete their registration in sending it to the county elections official.<sup>156</sup> We urge Congress to incentivize states to provide access to voter registration and to ensure young people leave state custody with a government form of identification. Congress should reintroduce and support the Voter Information and Access Act of 2018, which would amend Federal law to require the Bureau of Prisons to include voting restoration and voter registration as part of its planning program preparing incarcerated people for re-entry into society and would clarify that the attorney general can award grants to prisons, jails, juvenile facilities, and re-entry courts for voter registration and restoration programs.<sup>157</sup>

### **Increase Funding for the Reintegration of Ex-Offenders (RExO) Program at Department of Labor**

Congress should increase funding for the Reintegration of Ex-Offenders (RExO) Program managed by the Employment & Training Administration at the U.S. Department of Labor. In

fiscal year 2019, Congress allocated more than \$93 million to provide grants to nonprofit organizations to support 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 \$25 million set-aside to assist formerly incarcerated youth from high-poverty, high-crime areas. Too many states aren't utilizing these funds.<sup>158</sup> 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.

### **Encourage States to Offer Industry-Recognized Credentials and Postsecondary Education at All Juvenile Facilities**

Productive partnerships between juvenile facilities and career and technical education facilities, community colleges, and job training programs exist in states across the country. Unfortunately, they are the exception that proves the rule. Few states have the comprehensive statewide approach that Oklahoma does.<sup>159</sup> The Juvenile Justice Reform Act of 2018 allows for easier transfer and application of education credits (full and partial) earned by system-involved youth across school systems in part by requiring states receiving funding under the Act to collaborate with state educational agencies to ensure educational process is made for adjudicated juveniles. It also calls for individualized case plans to help youth re-enter their communities, including education and job training assistance, and an assessment on the living arrangements to which the youth will be discharged.

We urge Congress to incentivize states to increase access to credential programs, including expanding access to post-secondary education, which would increase alignment across Federal agencies and programs for a sub-population that many Federal programs seek to serve.

### **Reinstate Pell Grant Eligibility for Incarcerated Individuals**

In 1994, as a "tough on crime" approach, Congress removed access to the Federal Pell Grant program for incarcerated individuals. This ban resulted in the elimination of more than 95 percent of education programs in prisons, from over 350 in 1990 to only 12 in 2005.<sup>160</sup> Congress should reinstate Pell grant access for incarcerated individuals in order to support better access to employment upon reentry, lower recidivism rates, and improve public safety.

Access to post-secondary education greatly improves students' economic security and job prospects – it lowers unemployment rates, boosts students' earning potential, and opens up career paths. Post-secondary education is also highly effective in lowering recidivism rates. Studies have shown that offering education programs, including post-secondary education, to incarcerated individuals significantly reduces the likelihood of returning to prison.<sup>161</sup> The national recidivism rate is 43.3 percent within 3 years, but that rate drops to 13.7 percent if formerly incarcerated individuals receive an associate's degree, 5.6 percent if they receive a bachelor's degree, and less than 1 percent if they receive a master's degree.<sup>162</sup> For every dollar invested in post-secondary education programs, there is a reduction in incarceration

costs of \$4 to \$5 during the first 3 years after an individual is released from custody. Because of the clear human, economic, and safety benefits, Congress should amend the Higher Education Act of 1965 and restore Federal Pell Grant access to incarcerated individuals as soon as possible.

**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.<sup>163</sup> Youth are also exceedingly amenable to treatment. 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.<sup>164</sup> 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. Further, Congress should disincentivize states from including youth on registries by tying the Federal funding to keeping youth off sex offender registries.

## Endnotes

- <sup>1</sup> The Juvenile Justice Reform Act of 2018, H.R. 6964, 115th Cong. (2018).
- <sup>2</sup> *Id.*
- <sup>3</sup> SUPPORT for Patients and Communities Act, H.R. 6, 115th Cong. (2018).
- <sup>4</sup> United States Parole Commission Extension Act of 2018, H.R. 6896, 115th Cong. § 4 (2018).
- <sup>5</sup> See JASMINE AWAD, RACHEL MARSHALL, ERIC RICO, AND JEREE THOMAS, IS IT ENOUGH? THE IMPLEMENTATION OF PREA’S YOUTHFUL INMATE STANDARD (2018), available at [http://www.campaignforyouthjustice.org/images/Issue\\_Brief\\_Is\\_It\\_Enough\\_The\\_Implementation\\_of\\_PREA\\_As\\_Youthful\\_Inmate\\_Standard\\_Updated.pdf](http://www.campaignforyouthjustice.org/images/Issue_Brief_Is_It_Enough_The_Implementation_of_PREA_As_Youthful_Inmate_Standard_Updated.pdf).
- <sup>6</sup> Tiffany Joslyn Juvenile Accountability Block Grant Program Reauthorization Act of 2017, H.R. 68, 115th Cong. (2018).
- <sup>7</sup> Tiffany Joslyn Juvenile Accountability Block Grant Program Reauthorization Act of 2019, H.R. 494, 116th Cong. (2019).
- <sup>8</sup> M. Sickmund, A. Sladky, and W. Kang, *Year of Disposition by Age at Referral*, Easy Access to Juvenile Court Statistics: 1985-2016 (2018), <https://www.ojjdp.gov/ojstatbb/ezajcs/asp/display.asp>.
- <sup>9</sup> *OJJDP Statistical Briefing Book: Juvenile Arrests*, Office of Juvenile Justice and Delinquency Prevention (Oct. 22, 2018), <https://www.ojjdp.gov/ojstatbb/crime/qa05101.asp?qaDate=2017>.
- <sup>10</sup> *Id.*
- <sup>11</sup> Sickmund, *et al.*, *supra* note 8.
- <sup>12</sup> CHARLES PUZZANCHERA, MELISSA SICKMUND, AND ANTHONY SLADKY, NAT’L CENTER FOR JUVENILE JUSTICE, YOUTH YOUNGER THAN 18 PROSECUTED IN CRIMINAL COURT: NATIONAL ESTIMATE, 2015 (2018), available at <http://www.campaignforyouthjustice.org/images/Transfer-estimate.pdf>.
- <sup>13</sup> *OJJDP Statistical Briefing Book: Demographics*, Office of Juvenile Justice and Delinquency Prevention (Mar. 27, 2018), <https://www.ojjdp.gov/ojstatbb/corrections/qa08201.asp?qaDate=2016>.
- <sup>14</sup> Zhen Zeng, U.S. Dep’t of Justice, Office of Justice Programs, Bureau of Justice Statistics (Feb. 2018), available at <https://www.bjs.gov/content/pub/pdf/ji16.pdf>; Anne E. Carson, & Joseph Mulako-Wangota, Joseph, Bureau of Justice Statistics., Count of Inmates Age 17 or Younger in Custody (Jan. 10, 2018) (Generated using the Corrections Statistical Analysis Tool (CSAT)), <https://www.ojjdp.gov/ojstatbb/corrections/qa08701.asp?qaDate=2016>.
- <sup>15</sup> SARAH ALICE BROWN, NAT’L CONFERENCE OF STATE LEGISLATURES, TRENDS IN JUVENILE JUSTICE STATE LEGISLATION: 2001-2011 (2012), available at <http://www.ncsl.org/documents/cj/trendsinjuvenilejustice.pdf>; SARAH ALICE BROWN, NAT’L CONFERENCE OF STATE LEGISLATURES, TRENDS IN JUVENILE JUSTICE STATE LEGISLATION: 2011-2015, available at [http://www.ncsl.org/documents/cj/Juvenile\\_Justice\\_Trends\\_1.pdf](http://www.ncsl.org/documents/cj/Juvenile_Justice_Trends_1.pdf).
- <sup>16</sup> RICHARD MENDEL, THE ANNIE E. CASEY FOUND., MALTREATMENT OF YOUTH IN U.S. JUVENILE CORRECTIONS FACILITIES (2015), available at <http://www.aecf.org/resources/maltreatment-of-youth-in-us-juvenile-corrections-facilities>; RICHARD MENDEL, THE ANNIE E. CASEY FOUND., NO PLACE FOR KIDS, THE CASE FOR REDUCING JUVENILE INCARCERATION (2011), available at [www.aecf.org/noplaceforkids](http://www.aecf.org/noplaceforkids).
- <sup>17</sup> AMANDA PETTERUTI, MARC SCHINDLER, AND JASON ZIEDENBERG, JUSTICE POLICY INST., STICKER SHOCK: CALCULATING THE FULL PRICE TAG FOR YOUTH INCARCERATION (2014), available at <http://www.justicepolicy.org/research/8477>; RICHARD MENDEL, THE ANNIE E. CASEY FOUND., NO PLACE FOR KIDS, THE CASE FOR REDUCING JUVENILE INCARCERATION (2011), available at [www.aecf.org/noplaceforkids](http://www.aecf.org/noplaceforkids).
- <sup>18</sup> Shaena Fazal, Nat’l Collaboration for Youth, Nat’l Human Serv. Assembly, *Beyond Bars: Keeping Young People Safe at Home and Out of Youth Prisons* (2014), available at <http://www.collab4youth.org/news?id=737>; TONY FABELO, PHD, NANCY ARRIGONA, MPA, AND MICHAEL D. THOMPSON, JUSTICE CTR., COUNCIL OF STATE GOVERNMENTS, CLOSER TO HOME: AN ANALYSIS OF THE STATE AND LOCAL IMPACT OF THE TEXAS JUVENILE JUSTICE REFORM (2015), available at <http://csgjusticecenter.org/youth/publications/closer-to-home>.
- <sup>19</sup> JEFFREY A. BUTTS, *ET AL.*, POSITIVE YOUTH JUSTICE: FRAMING JUSTICE INTERVENTIONS USING THE CONCEPTS OF POSITIVE YOUTH DEVELOPMENT (2010), available at <http://citeseerx.ist.psu.edu/viewdoc/summary?doi=10.1.1.610.8464>; NAT’L RESEARCH COUNCIL, REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL APPROACH (2013), available at <http://www.nap.edu/catalog/14685/reforming-juvenile-justice-a-developmental-approach>.

- <sup>20</sup> COMM. ON A PRIORITIZED PLAN TO IMPLEMENT A DEVELOPMENTAL APPROACH TO JUVENILE JUSTICE REFORM, COMM. ON LAW AND JUSTICE, DIVISION OF BEHAVIORAL AND SOCIAL SCIENCES AND EDUCATION, IMPLEMENTING JUVENILE JUSTICE REFORM: THE FEDERAL ROLE (2014), available at <http://www.nap.edu/catalog/18753/implementing-juvenile-justice-reform-the-federal-role> [hereinafter THE FEDERAL ROLE].
- <sup>21</sup> JUVENILE JUSTICE FEDERAL FUNDING CHART, ACT 4 JUVENILE JUSTICE , available at <http://www.act4jj.org/sites/default/files/resource-files/Historic%20Funding%20Chart%20-%20FY18.pdf> (last visited Jan. 23, 2019).
- <sup>22</sup> Tiffany Joslyn Juvenile Accountability Block Grant Program Reauthorization Act of 2017, H.R. 68, 115th Cong. (2017).
- <sup>23</sup> Tiffany Joslyn Juvenile Accountability Block Grant Program Reauthorization Act of 2019, H.R. 494, 116th Cong. (2019).
- <sup>24</sup> Juvenile Justice Federal Funding Chart, *supra* note 21.
- <sup>25</sup> CONGRESSIONAL RESEARCH SERVICES, JUVENILE JUSTICE FUNDING TRENDS (May 1, 2018), available at <https://www.everycrsreport.com/reports/R44879.html>.
- <sup>26</sup> Juvenile Justice Reform Act of 2018, H.R. 6964 Sec. 402, 115th Cong. (2018).
- <sup>27</sup> Hui Huang, Joseph P. Ryan, and Denise Hercz, *The Journey of Dually-Involved Youth: The Description and Prediction of Reporting and Recidivism*, 34 CHILDREN AND YOUTH SERV. REV. 1, 254-260 (2011), available at <https://www.sciencedirect.com/science/article/pii/S0190740911003860>.
- <sup>28</sup> Child Outcomes Need New Efficient Community Teams (CONNECT) Act, S. 3193, 114th Cong. (2016).
- <sup>29</sup> Jeremy Loudonback, *Juvenile Justice Division a Likely Victim in Massive Culling of Justice Department*, CHRONICLE OF SOCIAL CHANGE (Apr. 11, 2018), <https://chronicleofsocialchange.org/justice/juvenile-justice-2/juvenile-justice-division-likely-victim-massive-culling-justice-department/30462>.
- <sup>30</sup> Caren Harp, *OJJDP Is Simplifying Title II Work to Focus on DMC Reduction, Not Process*, JUVENILE JUSTICE INFORMATION EXCHANGE (June 29, 2018), <https://www.ojjdp.gov/enews/op-ed-simplifying-title-ii-work-to-focus-on-dmc-reduction-not-process.html>.
- <sup>31</sup> Press Release, U.S. Dep't of Justice, Office of Public Affairs, Attorney General Jeff Sessions Rescinds 24 Guidance Documents (July 3, 2018), available at <https://www.justice.gov/opa/pr/attorney-general-jeff-sessions-rescinds-24-guidance-documents>.
- <sup>32</sup> AARON LEMELIN, SUNLIGHT FOUND., REDUCTION IN ACCESS TO PAGES ABOUT PROGRAMS AND POLICY GUIDANCE ON THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION'S WEBSITE (Oct. 2, 2018), available at <https://sunlightfoundation.com/wp-content/uploads/2018/10/AAR-13-OJJDP-Programs-Policy-Guidances-181002.pdf>.
- <sup>33</sup> NAT'L RESEARCH COUNCIL, *supra* note 19.
- <sup>34</sup> THE FEDERAL ROLE *supra* note 20.
- <sup>35</sup> *Id.* at 1.
- <sup>36</sup> *Id.* at 17.
- <sup>37</sup> CAMPAIGN FOR YOUTH JUSTICE, THE CONSEQUENCES AREN'T MINOR: THE IMPACT OF TRYING YOUTH AS ADULTS AND STRATEGIES FOR REFORM (Mar. 2007), available at [http://www.justicepolicy.org/uploads/justicepolicy/documents/07-03\\_c4yjconsequences\\_jj.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/07-03_c4yjconsequences_jj.pdf).
- <sup>38</sup> RICHARD E. REDDING, U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, JUVENILE TRANSFER LAWS: AN EFFECTIVE DETERRENT TO DELINQUENCY? (June 2010), available at <https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf>.
- <sup>39</sup> INT'L ASSOCIATION OF CHIEFS OF POLICE, THE EFFECTS OF ADOLESCENT DEVELOPMENT ON POLICING (2015), available at <http://www.theiACP.org/Portals/0/documents/pdfs/IACPBriefEffectsofAdolescentDevelopmentonPolicing.pdf>.
- <sup>40</sup> PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING, FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING (2015), available at [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf).
- <sup>41</sup> *Id.*
- <sup>42</sup> *In Another Big year for "Raise the Age" Laws, One State Now Considers all Teens Juveniles*, THE CHRONICLE OF SOCIAL CHANGE (June 25, 2018), <https://chronicleofsocialchange.org/youth-services-insider/juvenile-justice-raise-the-age-vermont-missouri-state-legislation>.
- <sup>43</sup> *See id.* (noting that with a few exceptions, by 2022 all teens, including 19-year-olds, will be treated as juveniles).



- <sup>44</sup> JEREE THOMAS, RAISING THE BAR: STATE TRENDS IN KEEPING YOUTH OUT OF ADULT COURTS (2015-2017) 31-33 (2017), available at [http://cfyj.org/images/A-StateTrends\\_Report-Web.pdf](http://cfyj.org/images/A-StateTrends_Report-Web.pdf).
- <sup>45</sup> *Id.* at 31.
- <sup>46</sup> *Id.* at 33; CAL. WELF. & INST. CODE § 707 (2018).
- <sup>47</sup> THOMAS, *supra* note 44 at 33.
- <sup>48</sup> Record Expungement Designed to Enhance Employment Act of 2015, S. 827, 115 Cong. (2017); Record Expungement Designed to Enhance Employment Act of 2015, H.R. 1906, 115 Cong. (2017)
- <sup>49</sup> NEELUM ARYA, JAIL REMOVAL PROJECT, GETTING TO ZERO: A 50-STATE STUDY OF STRATEGIES TO REMOVE YOUTH FROM ADULT JAILS 11 (2018), available at [https://drive.google.com/file/d/1LLSF8uBlrcqDaFW3ZKo\\_k3xpk\\_DTmItV/view](https://drive.google.com/file/d/1LLSF8uBlrcqDaFW3ZKo_k3xpk_DTmItV/view) (80 percent of youth in adult jails are youth charged as adults).
- <sup>50</sup> Currently, only four states set the age of criminal responsibility below age 18 – they include Georgia, Michigan, Texas and Wisconsin. There are five more states who are in the process of implementing their “raise the age” laws.
- <sup>51</sup> ARYA, *supra* note 49.
- <sup>52</sup> See Josh Rovner, *Juvenile Life Without Parole: An Overview*, THE SENTENCING PROJECT (Oct. 22, 2018), <https://www.sentencingproject.org/publications/juvenile-life-without-parole/> (“Since 2005, Supreme Court rulings have accepted adolescent brain science and banned the use of capital punishment for juveniles, limited life without parole sentences to homicide offenders, banned the use of mandatory life without parole, and applied the decision retroactively. In 2012, the Court ruled that judges must consider the unique circumstances of each juvenile offender, banning mandatory sentences of life without parole for all juveniles; in 2016, this decision was made retroactive to those sentenced prior to 2012.”); *States the Ban Life Without Parole for Children*, CAMPAIGN FOR THE FAIR SENTENCING OF YOUTH, <https://www.fairsentencingofyouth.org/media-resources/states-that-ban-life/> (last visited Feb. 4, 2019).
- <sup>53</sup> *ABA Urges High Court to Expand 2012 Juvenile Life-Without-Parole Decision*, AMERICAN BAR ASS’N (July 29, 2015), [https://www.americanbar.org/news/abanews/aba-news-archives/2015/07/aba\\_urges\\_high\\_court/](https://www.americanbar.org/news/abanews/aba-news-archives/2015/07/aba_urges_high_court/).
- <sup>54</sup> U.N. Committee against Torture, Concluding Observations on the Combined Third to Fifth Periodic Reports of the United States of America ¶ 23-24, U.N. Doc. CAT/C/USA/CO/3-5 (Dec. 19, 2014); Rights of the Child, G.A. Res. 61/146 ¶ 31(a), U.N. Doc. A/Res/61/146 (Dec. 19, 2006).
- <sup>55</sup> H.R. 6011, 116th Cong. (2018).
- <sup>56</sup> The Sentencing Reform and Corrections Act, S. 1917, 116th Cong. (2017).
- <sup>57</sup> PETTERUTI, *ET AL.*, *supra* note 17.
- <sup>58</sup> *OJJDP Statistical Briefing Book: Family Characteristics*, Office of Juvenile Justice and Delinquency Prevention <https://www.ojjdp.gov/ojstatbb/corrections/qa08522.asp?qaDate=2016>.
- <sup>59</sup> PATRICK MCCARTHY, VINCENT SCHIRALDI, & MIRIAM SHARK, NAT’L INST. OF JUSTICE, HARVARD KENNEDY SCHOOL, THE FUTURE OF YOUTH JUSTICE: A COMMUNITY-BASED ALTERNATIVE TO THE YOUTH PRISON MODEL (2016), available at [https://www.aecf.org/m/resourcedoc/NIJ-The\\_Future\\_of\\_Youth\\_Justice-10.21.16.pdf](https://www.aecf.org/m/resourcedoc/NIJ-The_Future_of_Youth_Justice-10.21.16.pdf).
- <sup>60</sup> *National Poll Result*, YOUTH FIRST INITIATIVE (Feb. 26, 2017), <http://www.youthfirstinitiative.org/national-poll-results-2017/>; *Public Opinion on Juvenile Justice in America*, PEW CHARITABLE TRUSTS’ PUBLIC SAFETY PERFORMANCE PROJECT, (2014), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2014/12/public-opinion-on-juvenile-justice-in-america>.
- <sup>61</sup> Juvenile Justice Federal Funding Chart, *supra* note 21.
- <sup>62</sup> *YVPC Accomplishments*, CNT. FOR DISEASE CONTROL AND PREVENTION (Mar. 26, 2018), [https://www.cdc.gov/violenceprevention/youthviolence/yvpc/accomplishments.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fviolenceprevention%2Fyvpc%2Faccomplishments.html](https://www.cdc.gov/violenceprevention/youthviolence/yvpc/accomplishments.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fviolenceprevention%2Fyvpc%2Faccomplishments.html).
- <sup>63</sup> *Id.*
- <sup>64</sup> PETTERUTI, *ET AL.*, *supra* note 17.
- <sup>65</sup> JUSTICE POLICY INST. & NAT’L CTR. FOR VICTIMS OF CRIME, SMART, SAFE, AND FAIR: STRATEGIES TO PREVENT YOUTH VIOLENCE, HEAL VICTIMS OF CRIME, AND REDUCE RACIAL INEQUALITY (2018), available at [http://www.justicepolicy.org/uploads/justicepolicy/documents/Smart\\_Safe\\_and\\_Fair\\_9\\_5\\_18.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/Smart_Safe_and_Fair_9_5_18.pdf).
- <sup>66</sup> *Juvenile Detention Alternatives Initiative*, THE ANNIE E. CASEY FOUND., <https://www.aecf.org/work/juvenile-justice/jdai/> (last visited Feb. 13, 2019).

<sup>67</sup> SHAENA FAZAL, YOUTH ADVOCATE PROGRAM, SAFELY HOME: REDUCING YOUTH INCARCERATION AND ACHIEVING POSITIVE YOUTH OUTCOMES FOR HIGH AND COMPLEX NEED YOUTH THROUGH EFFECTIVE COMMUNITY-BASED PROGRAMS (2014), *available at* <https://www.ncjrs.gov/App/Publications/Abstract.aspx?id=269376>.

<sup>68</sup> NAT'L RESEARCH COUNCIL, *supra note* 19 at 181.

<sup>69</sup> NAT'L CONFERENCE OF STATE LEGISLATORS, MENTAL HEALTH NEEDS OF JUVENILE OFFENDERS, <http://www.ncsl.org/documents/cj/jjguidebook-mental.pdf> (last visited Jan. 22, 2019); Lee A. Underwood & Aryssa Washington, *Mental Health Illness and Juvenile Offenders*, 13 INT. J. ENVIRON. RES. PUBLIC HEALTH 228 (Feb. 18, 2016), *available at* <https://www.mdpi.com/1660-4601/13/2/228>.

<sup>70</sup> *One in Eight: The Reality of Sexual Abuse in Juvenile Detention*, JUST DETENTION INT'L, <https://justdetention.org/webinar/one-in-eight-the-reality-of-sexual-abuse-in-juvenile-detention/> (last visited Feb. 13, 2018).

<sup>71</sup> MENDEL, ANNIE E. CASEY FOUND., MALTREATMENT OF YOUTH IN U.S. JUVENILE CORRECTIONS FACILITIES: AN UPDATE (2015), *available at* <https://www.aecf.org/m/resourcedoc/aecf-maltreatmentyouthuscorrections-2015.pdf>.

<sup>72</sup> *Id.*

<sup>73</sup> BARRY HOLMAN AND JASON ZIEDENBERG, JUSTICE POLICY INSTIT., THE DANGERS OF DETENTION: THE IMPACT OF INCARCERATING YOUTH IN DETENTION AND OTHER SECURE FACILITIES (2006), *available at* [http://www.justicepolicy.org/images/upload/06-11\\_rep\\_dangersofdetention\\_jj.pdf](http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf).

<sup>74</sup> Rachel Marshall, *We Need to Help Immigrant Youth, Not Scapegoat Them*, JUVENILE JUSTICE INFORMATION EXCHANGE (June 27, 2018), <https://jjie.org/2018/06/27/we-need-to-help-immigrant-youth-not-scapegoat-them/>.

<sup>75</sup> P.L. 96-509, 94 Stat. 2755 (December 1980).

<sup>76</sup> *cf. id.*

<sup>77</sup> Juvenile Justice Reform Act of 2018, H.R. 6964 Sec. 205, 115th Cong. (2018); OVERVIEW OF THE JUVENILE JUSTICE REFORM ACT OF 2018, ACT 4 JUVENILE JUSTICE (Dec. 2018), *available at* <http://www.act4jj.org/sites/default/files/resource-files/JJDPAR%20Reauthorization%20Summary%20December%202018.pdf>.

<sup>78</sup> DOUGLAS W. NELSON, ANNIE E. CASEY FOUND. A ROAD MAP FOR JUVENILE JUSTICE REFORM (2008), *available at* <https://www.aecf.org/resources/a-road-map-for-juvenile-justice-reform/>; HOLMAN AND ZIEDENBERG, *supra note* 73.

<sup>79</sup> *Id.*

<sup>80</sup> COMPLIANCE DATA FOR FY2013-FY2014, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, *available at* <http://www.ojjdp.gov/compliance/FY2013-FY%202014VCO-state.pdf> (last visited Jan. 31, 2019).

<sup>81</sup> Jon Campbell, *Takedown of DOJ Juvenile Justice Office Webpages about Still-Active Initiatives Highlights Its Shift Towards a More Punitive Approach*, SUNLIGHT FOUND. (Oct. 4, 2018), <https://sunlightfoundation.com/2018/10/04/ojjdp-website-changes-reflect-punitive-direction-of-office/>.

<sup>82</sup> *See* JUVENILE JUSTICE AND DELINQUENCY PREVENTION FACT SHEET SERIES: STATE ADVISORY GROUP MEMBERSHIP, ACT 4 JUVENILE JUSTICE, *available at* <http://www.act4jj.org/sites/default/files/resource-files/SAG%20Members%20Fact%20Sheet%20-%20H.R.%206964%20JJDPAR.pdf> (nothing that, under the JJDPAR reauthorization, that a parent or guardian of a justice-involved youth may serve on the SAG in place of a justice-involved youth, but that this is an exception).

- <sup>83</sup> See LOCKED OUT OF THE CLASSROOM: HOW IMPLICIT BIAS CONTRIBUTES TO DISPARITIES IN SCHOOL DISCIPLINE, NAACP LEGAL DEFENSE FUND 4 (2017), available at [http://www.naacpldf.org/files/about-us/Bias\\_Reportv2017\\_30\\_11\\_FINAL.pdf](http://www.naacpldf.org/files/about-us/Bias_Reportv2017_30_11_FINAL.pdf) [hereinafter LOCKED OUT OF THE CLASSROOM]; Russell J. Skiba, et al., *The Color of Discipline: Sources of Racial and Gender Disproportionately in School Punishment*, 34 URBAN REV. 4 (Dec. 2002), available at <http://www.indiana.edu/~equity/docs/ColorofDiscipline2002.pdf> (Research has shown time and again that youth of color are no more likely to misbehave than white youth.); *The School-to-Prison Pipeline: Infographic*, ADVANCEMENT PROJECT (Sept. 3, 2013), <http://advancementproject.org/resources/school-prison-pipeline-infographic/> (showing that over 70 percent of students involved in school related arrests or referred to law enforcement are African-American or Hispanic.); Katherine Reynolds Lewis, *Why Schools Over-Discipline Children With Disabilities*, THE ATLANTIC (Jul. 24, 2015), <https://www.theatlantic.com/education/archive/2015/07/school-discipline-children-disabilities/399563/> (explaining that zero-tolerance policies have an even greater effect on students with disabilities, particularly those students with depression, autism, and behavioral disorders.); MOVEMENT ADVANCEMENT PROJECT AND CTR. FOR AMERICAN PROGRESS, UNJUST: HOW THE BROKEN JUVENILE AND CRIMINAL JUSTICE SYSTEMS FAIL LGBTQ YOUTH (Aug. 2016), available at <http://www.lgbtmap.org/file/lgbt-criminal-justice-youth.pdf>.
- <sup>84</sup> AMBER FARN, M.S.ED., CNTR. FOR JUVENILE JUSTICE REFORM, KEEPING YOUTH AND OUT OF THE JUSTICE SYSTEM: PROMISING PRACTICES AND APPROACHES 1-2 (June 2018), available at [https://cjjr.georgetown.edu/wp-content/uploads/2018/05/CP-Series-Bulletin\\_School-Justice-May-2018.pdf](https://cjjr.georgetown.edu/wp-content/uploads/2018/05/CP-Series-Bulletin_School-Justice-May-2018.pdf).
- <sup>85</sup> MONIQUE W. MORRIS, REBECCA EPSTEIN, AND AISHATU YUSUF, BE HER RESOURCE: A TOOLKIT ABOUT SCHOOL RESOURCE OFFICERS AND GIRLS OF COLOR (2016), available at [https://www.law.georgetown.edu/poverty-inequality-center/wp-content/uploads/sites/14/2018/05/17\\_SRO-final-Acc.pdf](https://www.law.georgetown.edu/poverty-inequality-center/wp-content/uploads/sites/14/2018/05/17_SRO-final-Acc.pdf).
- <sup>86</sup> Aaron Kupchik, *The flaws in the NRA's school-security proposal*, WASH. POST (Dec. 30, 2012), [http://www.washingtonpost.com/opinions/the-nras-faulty-school-security-proposal/2012/12/30/b5b73fc0-5054-11e2-950a-7863a013264b\\_story.html](http://www.washingtonpost.com/opinions/the-nras-faulty-school-security-proposal/2012/12/30/b5b73fc0-5054-11e2-950a-7863a013264b_story.html).
- <sup>87</sup> Consolidated Appropriations Act, 2018, Pub. L. No. 115-141 (2018).
- <sup>88</sup> Press Release, The Leadership Conference on Civil and Human Rights, DeVos and DOJ Repeal Discipline Guidance that Clarifies Children's Civil Rights (Dec. 21, 2018), available at <https://civilrights.org/devos-and-doj-repeal-discipline-guidance-that-clarifies-childrens-civil-rights/>.
- <sup>89</sup> E.g., *School-Justice Partnership Project: Keeping Kids in School and Out of Court*, Nat'l Council of Juvenile and Family Court Judges, <https://schooljusticepartnership.org/about-the-project.html> (last visited Feb. 4, 2019).
- <sup>90</sup> OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, INTERSECTION BETWEEN MENTAL HEALTH AND JUVENILE JUSTICE, available at <https://www.ojjdp.gov/mpg/litreviews/Intersection-Mental-Health-Juvenile-Justice.pdf> (last updated July 2017); NAT'L CONFERENCE OF STATE LEGISLATORS, MENTAL HEALTH NEEDS OF JUVENILE OFFENDERS, <http://www.ncsl.org/documents/cj/jjguidebook-mental.pdf> (last visited Jan. 22, 2019); Lee A. Underwood and Aryssa Washington, *Mental Health Illness and Juvenile Offenders*, 13 INT. J. ENVIRON. RES. PUBLIC HEALTH 228 (Feb. 18, 2016), available at <https://www.mdpi.com/1660-4601/13/2/228>.
- <sup>91</sup> FEDERAL ADVISORY COMMITTEE ON JUVENILE JUSTICE, ANNUAL REPORT (2006), available at <http://www.ncjrs.gov/pdffiles1/ojjdp/218367.pdf>.
- <sup>92</sup> SUPPORT for Patients and Communities Act, H.R. 6, 115th Cong. (2018).
- <sup>93</sup> First Step Act, S. 3649, 115th Cong. (2018); Juvenile Justice Reform Act of 2018, H.R. 6964, 115th Cong. (2018).
- <sup>94</sup> *Enhancing Law Enforcement Response to Children Exposed to Violence and Childhood Trauma*, INT'L ASSOCIATION OF CHIEFS OF POLICE, <https://www.theiacp.org/projects/enhancing-law-enforcement-response-to-children-exposed-to-violence-and-childhood-trauma> (last visited Feb. 12, 2019).
- <sup>95</sup> M.H. MORTON, A. DWORSKY, J.L. MATJASKO, S.R. CURRY, MISSED OPPORTUNITIES: YOUTH HOMELESSNESS IN AMERICA, NATIONAL ESTIMATES (2017), available at <http://voicesofyouthcount.org/brief/national-estimates-of-youth-homelessness/>.
- <sup>96</sup> ADMIN. ON CHILDREN, YOUTH AND FAMILIES, FAMILY AND YOUTH SERV. BUREAU, FINAL REPORT - STREET OUTREACH PROGRAM DATA COLLECTION PROJECT (Apr. 2016), available at <https://www.acf.hhs.gov/fysb/resource/street-outreach-program-data-collection-study>.

<sup>97</sup> MORTON, *et al.*, *supra* note 95.

<sup>98</sup> LISA PILNIK, NATIONAL NETWORK FOR YOUTH, RESPONDING TO YOUTH HOMELESSNESS: A KEY STRATEGY FOR PREVENTING HUMAN TRAFFICKING (2018), *available at* <https://www.nn4youth.org/learn/youthhomelessnesshumantrafficking/>.

<sup>99</sup> *National Disproportionate Minority Contact Databook*, NAT'L CTR. FOR JUVENILE JUSTICE FOR THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION (Aug. 22, 2018), <https://www.ojjdp.gov/ojstatbb/dmcd/b/>.

<sup>100</sup> JEREE THOMAS, ESQ. & MEL WILSON, THE COLOR OF YOUTH TRANSFERRED TO THE ADULT CRIMINAL JUSTICE SYSTEM: POLICY & PRACTICE RECOMMENDATIONS 1 (2018), *available at* [http://www.campaignforyouthjustice.org/images/pdf/Social\\_Justice\\_Brief\\_Youth\\_Transfers.Revised\\_copy\\_09-18-2018.pdf](http://www.campaignforyouthjustice.org/images/pdf/Social_Justice_Brief_Youth_Transfers.Revised_copy_09-18-2018.pdf).

<sup>101</sup> NATIONAL DISPROPORTIONATE MINORITY CONTACT DATABOOK, *supra* note 99; CHRISTOPHER HARTNEY AND LINH VUONG, NAT'L COUNCIL ON CRIME AND DELINQUENCY, CREATED EQUAL: RACIAL AND ETHNIC DISPARITIES (Mar. 2009), [http://nccdglobal.org/sites/default/files/publication\\_pdf/created-equal.pdf](http://nccdglobal.org/sites/default/files/publication_pdf/created-equal.pdf).

<sup>102</sup> JOSH ROVNER, THE SENTENCING PROJECT, RACIAL DISPARITIES IN YOUTH COMMITMENT AND ARRESTS (2016), *available at* <https://www.sentencingproject.org/wp-content/uploads/2016/04/Racial-Disparities-in-Youth-Commitments-and-Arrests.pdf>; *Implicit Bias Snapshot*, NAT'L JUVENILE JUSTICE (Sept. 2017), <http://www.njjn.org/our-work/implicit-bias-snapshot>.

<sup>103</sup> MOVEMENT ADVANCEMENT PROJECT AND CTR. FOR AMERICAN PROGRESS, UNJUST: HOW THE BROKEN JUVENILE AND CRIMINAL JUSTICE SYSTEMS FAIL LGBTQ YOUTH (Aug. 2016), *available at* <http://www.lgbtmap.org/file/lgbt-criminal-justice-youth.pdf>.

<sup>104</sup> Joshua Rovner, *Racial Disparities in Youth Commitments and Arrests*, THE SENTENCING PROJECT (Apr. 1, 2016), <https://www.sentencingproject.org/publications/racial-disparities-in-youth-commitments-and-arrests/>.

<sup>105</sup> Caren Harp, *OJJDP is Simplifying Title II Work to Focus on DMC Reduction, Not Process*, JUVENILE JUSTICE INFORMATION EXCHANGE (June 29, 2018), <https://jjie.org/2018/06/29/ojjdp-is-simplifying-title-ii-work-to-focus-on-dmc-reduction-not-process/>.

<sup>106</sup> *Native Disparities in Youth Incarceration*, THE SENTENCING PROJECT (Oct. 12, 2017), <https://www.sentencingproject.org/publications/native-disparities-youth-incarceration/>.

<sup>107</sup> U.S. Gen. Accounting Office, GAO-18-591, *Native American Youth Involvement in Justice Systems and Information on Grants to Help Address Juvenile Delinquency* (2002).

<sup>108</sup> *Id.*

<sup>109</sup> RICHARD DIAZ, *ET AL.*, THE ARC'S NAT'L CTR. ON CRIMINAL JUSTICE AND DISABILITY, JUSTICE-INVOLVED YOUTH WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES: A CALL TO ACTION FOR THE JUVENILE JUSTICE COMMUNITY (2015), *available at* <https://www.thearc.org/document.doc?id=5343>.

<sup>110</sup> KATHLEEN R. SKOWYRA AND JOSEPH J. COCOZZA, PHD, NAT'L CTR. FOR MENTAL HEALTH AND JUVENILE JUSTICE, BLUEPRINT FOR CHANGE: A COMPREHENSIVE MODEL FOR THE IDENTIFICATION AND TREATMENT OF YOUTH WITH MENTAL HEALTH NEEDS IN CONTACT WITH THE JUVENILE JUSTICE SYSTEM (May 2015), *available at* [http://www.ncmhjj.com/wp-content/uploads/2013/07/2007\\_Blueprint-for-Change-Full-Report.pdf](http://www.ncmhjj.com/wp-content/uploads/2013/07/2007_Blueprint-for-Change-Full-Report.pdf); LINDA A. TEPLIN, *ET AL.* OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, THE NORTHWESTERN JUVENILE PROJECT: OVERVIEW 1-13 (Feb. 2013), *available at* <http://www.ojjdp.gov/pubs/234522.pdf>; THE MENTAL HEALTH AND JUVENILE JUSTICE COLLABORATIVE FOR CHANGE, BETTER SOLUTIONS FOR YOUTH WITH MENTAL HEALTH NEEDS IN THE JUVENILE JUSTICE SYSTEM 1, 7 (2014), *available at* <http://cfc.ncmhjj.com/wp-content/uploads/2014/01/Whitepaper-Mental-Health-FINAL.pdf>.

<sup>111</sup> *See* ASERT, JUVENILE JUSTICE AND AUTISM SPECTRUM DISORDER 3 (2013), *available at* <http://www.paautism.org/desktopmodules/asert-api/api/item/ItemDetailFileDownload/4661/ASERT%20Juvenile%20Justice%20and%20Autism%20Spectrum%20Disorder%20Manual.pdf> (explaining that “it is estimated that individuals with ASD [Autism Spectrum Disorder] will have up to seven times more contact with law enforcement over the course of their lifetime than their peers.”).

<sup>112</sup> U.S. DEPT. OF EDUC. OFFICE OF CIVIL RIGHTS, CIVIL RIGHTS DATA COLLECTION DATA SNAPSHOT: SCHOOL DISCIPLINE (Mar. 2014), *available at* <https://blogs.edweek.org/edweek/rulesforengagement/CRDC%20School%20Discipline%20Snapshot.pdf>.

<sup>113</sup> *Id.*

<sup>114</sup> Jens Manuel Krogstad, Jeffrey S. Passel & D’Vera Cohn, *5 Facts about Illegal Immigration in the U.S.*, PEW RESEARCH CNTR. (Nov. 28, 2018), <http://www.pewresearch.org/fact-tank/2018/11/28/5-facts-about-illegal-immigration-in-the-u-s/>; Marshall, *supra* note 74.

<sup>115</sup> SHANNON WILBER AND ANNIE JUNCK, ANNIE E. CASEY FOUND., NONCITIZEN YOUTH IN THE JUVENILE JUSTICE SYSTEM 5, 12 (2014), available at <https://www.aecf.org/m/resourcedoc/aecf-NoncitizenYouthintheJJSYSTEM-2014.pdf>.

<sup>116</sup> Abigail Simon, *People Are Angry President Trump Used This Word to Describe Undocumented Immigrants*, TIME (June 19, 2018), <http://time.com/5316087/donald-trump-immigration-infest/>.

<sup>117</sup> NAT’L JUVENILE JUSTICE NETWORK, POLICY PLATFORM: SUPPORTING IMMIGRANT YOUTH IN THE CROSSHAIRS OF THE JUSTICE SYSTEM (Aug. 2018), available at <http://www.njjn.org/uploads/digital-library/Supporting%20Immigrant%20Youth,%20NJJN%20Policy%20Platform,%20August%20%202018.pdf>.

<sup>118</sup> Marshall, *supra* note 74.

<sup>119</sup> Elise Foley, *ICE’s ‘Targeted Enforcement Operation’ Mostly Arrests Immigrants It Wasn’t Targeting*, HUFFINGTON POST (Aug. 1, 2017, 3:32 PM), [https://www.huffingtonpost.com/entry/ice-enforcement-us\\_5980c7fde4b08e1430063383](https://www.huffingtonpost.com/entry/ice-enforcement-us_5980c7fde4b08e1430063383); Stephen Kang, *The Trump Administration Is Detaining Immigrant Kids for Gang Membership Without Evidence. So We Sued*, ACLU (Aug. 14, 2017, 2:00 PM), <https://www.aclu.org/blog/immigrants-rights/immigrants-rights-and-detention/trump-administration-detaining-immigrant-kids> (describing a Federal court case revealed that ICE arrested and detained a young man with Deferred Action for Childhood Arrivals (DACA) status. The young man, Daniel Ramirez Medina, was put into removal proceedings and ICE tried to strip him of his DACA status. ICE asserted that Ramirez was gang-affiliated and, among other deceptive actions, went as far as altering a statement Ramirez wrote in pencil to make it look like he confessed to being in a gang. A Federal judge ultimately found that ICE had violated Ramirez’s rights and also violated Federal law by stripping him of his DACA status.); Mark Joseph Stern, *Bad Liars*, SLATE (May 16, 2018, 5:18 PM), <https://slate.com/news-and-politics/2018/05/federal-judge-accused-ice-of-making-up-evidence-to-prove-that-dreamer-was-gang-affiliated.html> (detailing multiple incidents where ICE has been accused of alleging Latino youth are gang-affiliated with little to no evidence).

<sup>120</sup> CTR. FOR AMERICAN PROGRESS, MOVEMENT ADVANCEMENT PROJECT, AND YOUTH FIRST, UNJUST: LGBTQ YOUTH IN THE JUVENILE JUSTICE SYSTEM (June 2017), available at <https://www.lgbtmap.org/file/lgbtq-incarcerated-youth.pdf>; B.D.M. Wilson, *et al.*, *Disproportionality and Disparities among Sexual Minority Youth in Custody*, J. OF YOUTH ADOLESC. (2017); Angela Irvine and Aisha Canfield, *Reflections on New National Data on LGBTQ/GNCT Youth In the Justice System*, 2 LGBTQ POLICY JOURNAL AT THE HARVARD KENNEDY SCHOOL 27 (2017), available at <https://static1.squarespace.com/static/58ba8c479f7456dff8fb4e29/t/59739d333e00be4843e0263b/1500749110120/irvine.canfield.2017.pdf>.

<sup>121</sup> MOVEMENT ADVANCEMENT PROJECT AND CTR. FOR AMERICAN PROGRESS, UNJUST: HOW THE BROKEN JUVENILE AND CRIMINAL JUSTICE SYSTEMS FAIL LGBTQ YOUTH (Aug. 2016), available at <http://www.lgbtmap.org/file/lgbt-criminal-justice-youth.pdf>.

<sup>122</sup> *Id.*

<sup>123</sup> Kathryn E. W. Himmelstein and Hannah Bruckner, *Criminal Justice and School Sanctions against Non-Heterosexual Youth: A National Longitudinal Study*, 127 PEDIATRICS 49 (2011), available at <http://pediatrics.aappublications.org/content/127/1/49>.

<sup>124</sup> *Id.*

<sup>125</sup> ALLEN J. BECK, PHD, *ET AL.*, U.S. DEP’T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS, SEXUAL VICTIMIZATION IN JUVENILE FACILITIES REPORTED BY YOUTH, 2012 (2013), available at <https://www.bjs.gov/content/pub/pdf/svjfry12.pdf>.

<sup>126</sup> *Access to Juvenile Justice Irrespective of Sexual Orientation, Gender Identity, and Gender Expression (SOGIE)*, NAT’L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES (Aug. 27, 2017), <http://www.ncjfcj.org/SOGIE-Bench-Card>.

<sup>127</sup> MALIKA SAADA SAAR, *ET AL.*, HUMAN RIGHTS PROJECT FOR GIRLS, GEORGETOWN LAW CNT. ON POVERTY AND INEQUALITY, MS. FOUNDATION FOR WOMEN, THE SEXUAL ABUSE TO PRISON PIPELINE: THE GIRLS’ STORY (2015), available at [https://rights4girls.org/wp-content/uploads/r4g/2015/02/2015\\_COP\\_sexual-abuse\\_layout\\_web-1.pdf](https://rights4girls.org/wp-content/uploads/r4g/2015/02/2015_COP_sexual-abuse_layout_web-1.pdf).

<sup>128</sup> Sickmund, *et al.*, *supra* note 8.

<sup>129</sup> Cynthia Godsoe, *Contempt, Status, and the Criminalization of Non-Conforming Girls*, 34 CARDOZO L. REV. 1091 (2014), available at <http://ssrn.com/abstract=2446224>; Francine T. Sherman, *Justice for Girls: Are We Making Progress?*, 59 UCLA L. REV. 1584 (2012). See also, CTR. FOR PUBLIC POLICY STUDIES, HUMAN TRAFFICKING AND THE STATE COURTS COLLABORATIVE, STATE JUSTICE INST., DEALING WITH HUMAN TRAFFICKING VICTIMS IN A JUVENILE CASE (Nov. 2013), available at [http://www.htcourts.org/wp-content/uploads/HT\\_Victims\\_inJuvenileCases\\_v02.pdf?InformationCard=Dealing-With-HT-Victims-Juvenile](http://www.htcourts.org/wp-content/uploads/HT_Victims_inJuvenileCases_v02.pdf?InformationCard=Dealing-With-HT-Victims-Juvenile).

<sup>130</sup> RIGHTS 4 GIRLS, GIRLS' EXPERIENCES PRIOR TO JUSTICE INVOLVEMENT, available at <http://rights4girls.org/wp-content/uploads/r4g/2016/08/R4G-Physical-and-Mental-Health-Needs-fact-sheet.pdf> (last visited Feb. 4, 2019).

<sup>131</sup> PATRICIA K. KERIG, PHD AND JULIAN D. FORD, PHD, NAT'L CHILD TRAUMATIC STRESS NETWORK, JUVENILE JUSTICE CONSORTIUM, TRAUMA AMONG GIRLS IN THE JUVENILE JUSTICE SYSTEM (2014), available at [https://www.nctsn.org/sites/default/files/resources//trauma\\_among\\_girls\\_in\\_the\\_jj\\_system.pdf](https://www.nctsn.org/sites/default/files/resources//trauma_among_girls_in_the_jj_system.pdf); LIZ WATSON AND PETER EDELMAN, GEORGETOWN CTR. ON POVERTY, INEQUALITY, AND PUBLIC POLICY, IMPROVING THE JUVENILE JUSTICE SYSTEM FOR GIRLS: LESSONS FROM THE STATES (2012), available at [http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/JDS\\_V1R4\\_Web\\_Singles.pdf](http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/JDS_V1R4_Web_Singles.pdf).

<sup>132</sup> OJJDP FY 19 Girls in the Juvenile Justice System (GJJS), <https://grantsnet.justice.gov/programplan/html/Item.htm?ForecasterId=15052>.

<sup>133</sup> JESSICA FEIERMAN, *ET AL.*, JUVENILE LAW CTR., DEBTORS' PRISON FOR KIDS? THE HIGH COST OF FINES AND FEES IN THE JUVENILE JUSTICE SYSTEM (2016), available at <https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison.pdf>.

<sup>134</sup> 387 U.S. 1 (1967); *Honoring Gault: Ensuring Access to Counsel in Delinquency Proceedings*, NAT'L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES (Aug. 25, 2016), <https://www.ncjfcj.org/Honoring-Gault-Info-Card>.

<sup>135</sup> JESSICA FEIERMAN, *ET AL.*, JUVENILE LAW CTR., THE PRICE OF JUSTICE: THE HIGH COST OF "FREE" COUNSEL FOR YOUTH IN THE JUVENILE JUSTICE SYSTEM (2018), available at <https://jlc.org/resources/paying-justice-high-cost-free-counsel-youth-juvenile-justice-system>; <https://njdc.info/wp-content/uploads/2018/09/Arizona-Assessment-NJDC.pdf>.

<sup>136</sup> BECK, *supra* note 125.

<sup>137</sup> NAT'L PRISON RAPE ELIMINATION COMM'N, NATIONAL PRISON RAPE ELIMINATION COMMISSION REPORT (June 2009), available at <https://www.ncjrs.gov/pdffiles1/226680.pdf>.

<sup>138</sup> MENDEL, *supra* note 16.

<sup>139</sup> E.g., Fabiola Santiago, *Florida's Juvenile Justice system Fails to Protect Youth from Brutal Abuse*, MIAMI HERALD (Oct. 12, 2017), <https://www.miamiherald.com/news/local/news-columns-blogs/fabiola-santiago/article178575576.html>.

<sup>140</sup> Majority Committee Staff Report, U.S. Senate Health, Education, Labor, and Pensions Comm., Dangerous Use of Seclusion and Restraints in Schools Remains Widespread and Difficult to Remedy: A Review of Ten Cases (Feb. 12, 2014), available at <https://www.help.senate.gov/imo/media/doc/Seclusion%20and%20Restraints%20Final%20Report.pdf>.

<sup>141</sup> Brendan McCarthy, *Juvenile Justice System Uses Physical Restraints Banned in Schools*, WFPL (Aug. 5, 2016), <https://wfpl.org/juvenile-justice-system-uses-physical-restraints-outlawed-in-schools/>.

<sup>142</sup> ROBERT L LISTENBEE, JR., *ET AL.*, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, REPORT ON THE ATTORNEY GENERAL'S NATIONAL TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE (2012), available at [www.justice.gov/defendingchildhood/cev-rpt-full.pdf](http://www.justice.gov/defendingchildhood/cev-rpt-full.pdf).

<sup>143</sup> LINDSAY HAYES, U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, JUVENILE SUICIDE IN CONFINEMENT: A NATIONAL SURVEY (2009), available at [www.ncjrs.gov/pdffiles1/ojjdp/213691.pdf](http://www.ncjrs.gov/pdffiles1/ojjdp/213691.pdf).

<sup>144</sup> First Step Act, S. 3649, 115th Cong. (2018); Juvenile Justice Reform Act of 2018, H.R. 6964, 115th Cong. (2018).

- <sup>145</sup> Juvenile Justice Reform Act of 2018, H.R. 6964, 115th Cong. (2018).
- <sup>146</sup> “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, 112<sup>th</sup> Congress. *See also*, Sandra Simkins, Marty Beyer, Lisa M. Geis, *The Harmful Use of Isolation in Juvenile Facilities: The Need for Post-Disposition Representation*, 38 WASH. U. J. L. & POL’Y 241 (2012).
- <sup>147</sup> ARYA, *supra* note 49.
- <sup>148</sup> CAMPAIGN FOR YOUTH JUSTICE, JAILING JUVENILES (2007), available at [http://www.campaignforyouthjustice.org/documents/CFYJNR\\_JailingJuveniles.pdf](http://www.campaignforyouthjustice.org/documents/CFYJNR_JailingJuveniles.pdf).
- <sup>149</sup> *See* JASMINE AWAD, RACHEL MARSHALL, ERIC RICO, & JEREE THOMAS, IS IT ENOUGH? THE IMPLEMENTATION OF PREA’S YOUTHFUL INMATE STANDARD (2018), available at [http://www.campaignforyouthjustice.org/images/Issue Brief Is It Enough The Implementation of PREA As Youthful Inmate Standard Updated.pdf](http://www.campaignforyouthjustice.org/images/Issue%20Brief%20Is%20It%20Enough%20The%20Implementation%20of%20PREA%20As%20Youthful%20Inmate%20Standard%20Updated.pdf).
- <sup>150</sup> ARYA, *supra* note 49.
- <sup>151</sup> MELISSA SICKMUND & CHARLES PUZZANCHERA, NAT’L CTR. FOR JUVENILE JUSTICE, JUVENILE OFFENDERS AND VICTIMS: 2014 NATIONAL REPORT (2014), available at <https://www.ojjdp.gov/ojstatbb/nr2014/>.
- <sup>152</sup> JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT (JJDP) FACT SHEET SERIES: REENTRY, ACT 4 JJ COALITION (Feb. 2019), available at <http://www.act4jj.org/sites/default/files/resource-files/Reentry%20Fact%20Sheet%20-%20FINAL.pdf>.
- <sup>153</sup> First Step Act, S. 3649, 115th Cong. (2018); Juvenile Justice Reform Act of 2018, H.R. 6964, 115th Cong. (2018).
- <sup>154</sup> RIYA SAHA SHAH AND JEAN STROUT, FUTURE INTERRUPTED: THE COLLATERAL DAMAGE CAUSED BY PROLIFERATION OF JUVENILE RECORDS, JUVENILE LAW CTR. (2016), available at <http://www.jlc.org/resources/publications/future-interrupted-collateral-damage-caused-proliferation-juvenile-records>.
- <sup>155</sup> *O’Brien v. Skinner*, 414 U.S. 524 (1974).
- <sup>156</sup> Cal. S.B. No. 1063 (2016).
- <sup>157</sup> Sam Levine, *New Bill Aims To Make Sure Incarcerated People Know And Can Use Their Voting Rights*, HUFFINGTON POST (Dec. 24, 2018), [https://www.huffingtonpost.com/entry/incarcerated-people-voting-rights-new-legislation\\_us\\_5c2134a1e4b0407e907db56c](https://www.huffingtonpost.com/entry/incarcerated-people-voting-rights-new-legislation_us_5c2134a1e4b0407e907db56c).
- <sup>158</sup> EDWARD DEJESUS, *ET AL.*, NEW FUNDS FOR WORK: CONNECTING SYSTEMS FOR JUSTICE-INVOLVED PEOPLE, NAT’L YOUTH EMPLOYMENT COALITION, YOUTH ADVOCATE PROGRAMS, INC. (2017), available at <https://drive.google.com/file/d/11WeTDYhVGkPvklpOiGOFLnlxxQhB88og/view>.
- <sup>159</sup> *CareerTech Skills Ctr.*, OKLA. CAREERTECH, <https://www.okcareertech.org/about/careertech-system/delivery-arms/skills-centers> (last visited Jan. 22, 2019).
- <sup>160</sup> Samara Freemark, *Rewriting the Sentence, College Behind Bars: Keeping an Idea Alive*, AMERICAN PUBLIC MEDIA (Sept. 8, 2016), <https://www.apmreports.org/story/2016/09/08/prison-education>.
- <sup>161</sup> LOIS M. DAVIS, *ET AL.*, RAND CORPORATION, EVALUATING THE EFFECTIVENESS OF CORRECTIONAL EDUCATION, (2013), available at [https://www.bja.gov/Publications/RAND\\_Correctional-Education-Meta-Analysis.pdf](https://www.bja.gov/Publications/RAND_Correctional-Education-Meta-Analysis.pdf).
- <sup>162</sup> MICHELLE FINE, *ET AL.*, CHANGING MINDS: THE IMPACT OF COLLEGE IN A MAXIMUM-SECURITY PRISON (2001), available at [http://www.prisonpolicy.org/scans/changing\\_minds.pdf](http://www.prisonpolicy.org/scans/changing_minds.pdf).
- <sup>163</sup> Riya Saha Shah, *Five Facts About Juvenile Sex Offender Registration*, AMERICAN BAR ASSOCIATION (Dec. 5, 2018), <https://www.americanbar.org/groups/litigation/committees/childrens-rights/practice/2018/five-facts-about-juvenile-sex-offender-registration/>.
- <sup>164</sup> Riya Saha Shah, *How Sex Offender Registries Impact Youth*, TEEN VOGUE (Oct. 17, 2017), <https://www.teenvogue.com/story/how-sex-offender-registries-impact-youth>.



[www.promotesafecommunities.org](http://www.promotesafecommunities.org)