



# **THE FUTURE OF YOUTH JUSTICE 2021**

## **A Policy Platform for the Biden/Harris Administration**

A National Juvenile Coalition of  
State and National Members

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## Acknowledgements:

These recommendations are a collaborative effort by members of the National Juvenile Justice & Delinquency Prevention Coalition (NJJJPC). For additional information, please contact the following organizations:

Campaign for the Fair Sentencing of Youth

Campaign for Youth Justice

Center for Children's Law & Policy

Coalition for Juvenile Justice

The Haywood Burns Institute

Justice Policy Institute

National Juvenile Justice

The Sentencing Project

Rights4Girls

Since its inception in 1899, the juvenile court's mission was designed to support the perspective that a "child's need and not the deed" should govern court decisions. This focus on rehabilitation, to the extent that it was embraced beyond the original visionaries, was a welcome alternative to the punishment young people would face in the adult system. Despite its hopeful beginnings, almost immediately the juvenile court system raised questions about social control, bringing poor youth, youth with disabilities, and immigrant youth under supervision of the state, and under the care of "respectable" adults. While the juvenile court system remains arguably less harsh, to this day it is a relatively close replication of its adult counterpart.

At the base of our juvenile justice systems' problems is the disparate treatment of youth of color who, although they have similar rates of delinquent behavior as white youth, are punished more severely than their white counterparts at each step of the way. This unfair treatment of youth of color is a foundational problem in both our juvenile and criminal justice systems and is a reflection of the endemic structural racism and implicit bias that permeates our society.

A growing body of knowledge makes the case that harsh, punitive policies do not work, neither for kids nor public safety. This has led [states](#) to undertake reforms in the last decade to reduce youth incarceration by more than fifty percent and remove youth from adult courts, jails, and prisons. The number of youth arrests now accounts for only 7 percent of the nation's crime and has [declined](#) 60 percent between 2008 and 2018. These numbers will hopefully continue to decline with the 2018 reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP), which sets forth federal standards to ensure a minimum level of safety and equitable treatment for justice-involved youth. Robust investment and leadership in the implementation of the reauthorized Act will assist states, tribes and U.S. territories in advancing the purpose of the Act to "build a **continuum of evidence based or promising programs that are trauma informed, reflect the science of [adolescent development](#)** and are designed to meet the needs of at-risk youth and youth who come in contact with the justice system."

While there has been great progress in the last decade, not all youth have benefited equally from these reforms, and states still devote the largest share of their juvenile justice resources to incarcerating youth at an [estimated](#) \$5 billion per year. During the COVID-19 pandemic of 2020, it became evident that further reductions weren't only prudent, but a necessary means to ensure public health and safety for incarcerated children and staff. According to the [Sentencing Project](#), more than 2,300 youth across 38 states and DC have tested positive for the virus, yet only four states (New Jersey, Maryland, Maine and Texas) are universally testing children for the virus. Staff are being harmed at greater numbers, in 43 states, including at least two deaths. Yet we know 70% of detained children are there for non violent arrests, so more reductions are possible. With strong federal guidance that builds on science and research and upholds public safety, we can safely reduce youth incarceration during this pandemic and continue to support youth and their families in the community.

According to a national poll by [GBA Strategies](#), the American public supports a shift away from incarceration and towards serving youth in their communities. With strong federal leadership, the pace of reforms and a strong vision for youth justice can be accelerated.

In alignment with the priorities of the Biden/Harris campaign on Juvenile Justice, COVID-19 and racial equity, the following recommendations to advance a robust juvenile justice platform include:

## THE FIRST 100 DAYS:

I. **Coordinate DOJ COVID-19 guidance with the President's task force on COVID-19** by immediately rescinding the harmful 2020 COVID-19 guidance from OJJDP and issuing new guidance that is consistent with health care experts, such as the American Academy of Pediatrics (AAP) recent [statement](#) that calls for reducing admissions to youth detention & correctional facilities, removing youth from youth detention & correctional facilities, suspend the assessment, collection, and consequences of fines and fees during the course of the pandemic to reduce burdens on families, provide PPE, access to education, families and recreation for the small number of youth who require detention while avoiding isolation, and ensuring community support for youth reentering their communities.

II. **Support a Full and Robust Implementation of the JJDPA.** Reauthorized and strengthened in 2018, the JJDPA has a lot of promise. However, states need the assistance of the federal government in ensuring the law is implemented as intended in as many jurisdictions as possible. The Administration can ensure this by:

- Overturning harmful guidance issued by OJJDP in the 45th Administration, particularly those that harm vulnerable and/or over represented groups such as LGBTQ youth, youth of color, youth with pre-existing health conditions, girls, national origin as an indicator of gang-involvement, etc.
- Quickly appointing a visionary leader to the Office of Juvenile Justice & Delinquency Prevention who supports the purpose of the JJDPA and has a demonstrated track record of youth justice success.
- Ensuring the full \$176m authorized for Titles II and V of the Act are appropriated.
- Issuing guidance to states that outlines ways they can remain in compliance while implementing the new requirements of the 2018 reauthorization with a focus on the four core protections (Deinstitutionalization of Status Offenders, Removal of youth from Adult Jails and Sight/Sound Separation, and the reduction of Racial & Ethnic Disparities). This includes re-posting guidance on racial and ethnic disparities across all points of contact, starting with the police.
- Launching a focused and deliberate strategy to ensure the [10 non participating states and US Territories](#) (Arkansas, Connecticut, Massachusetts, Nebraska, Texas, West Virginia, Wyoming, American Samoa, Guam, and the Northern Mariana Islands) come back into compliance and participation with the Act.
- Ensure that Title V of the JJDPA is fully funded to ensure local responses to delinquency prevention by providing resources, mentoring, opportunities and entrepreneurship.
- Providing top quality technical assistance and training to states, that is grounded in evidence and administered by experts in the field.
- Appointing at least two families and impacted youth to task forces, councils, and other representative bodies that inform policy making and guidance, such as the Federal Coordinating Council on Juvenile Justice and the Federal Advising Committee on Juvenile Justice.
- Investing in cross-agency collaboration, particularly with the Departments of Health and Human Services, Labor, and Housing to strengthen outcomes for vulnerable youth.



**III. Reduce youth incarceration.** States spend tens of thousands of dollars every year to lock up a single young person – and it doesn't work. By investing in better solutions, taxpayers save millions while communities grow stronger and safer. The federal government can reduce youth incarceration by:

- Launching a \$20 million pilot program with 5 states utilizing existing BJA funding to provide incentive grants to states to close & repurpose youth prisons and direct investments to community-based, accessible, gender and culturally responsive, trauma-informed, and developmentally appropriate programs.
- Investing \$100 million in the President's FY2022 budget to expand the pilot program into a federal competitive grant program for states and localities to close youth prisons and repurpose them for non-correctional purposes; supporting correctional staff impacted by the closure, including by retraining them to work in rehabilitative spaces; helping communities impacted by closure on new economic development plans; ensuring more youth don't end up in the adult criminal justice system; and supporting communities in expanding youth-serving programs and services.
- Incentivizing states to remove youth with status offenses from youth detention by removing the Valid Court Order (VCO) exception to the [Deinstitutionalization of Status Offenders](#) (DSO) provision of the Juvenile Justice & Delinquency Prevention Act.
- Incentivize states to reduce incarceration by establishing laws setting a reasonable minimum age of 12 years for juvenile court jurisdiction.
- Eliminating the construction of jails and prisons as opportunities for rural development funded by U.S. Department of Agriculture bonds through the [Community Facilities Direct Loan and Grant Program](#), which dates back to the Rural Development Act of 1972.
- Study the implications of moving the Office of Juvenile Justice and Delinquency Prevention to the Administration for Children and Family Services Division of the Department of Health and Human Services.

**IV. Reinstate and update key guidance protecting youth:** In January 2017, the Department of Justice issued an Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on Levying Fines and Fees on Juveniles. This advisory was rescinded in December 2017. The guidance should be updated and reinstated with a focus on abolishing fines and fees imposed on youth and their families and preventing the collection of past owed debt, including addressing any outstanding warrants or related civil judgments. Similarly, the Trump administration rescinded manuals for complying with the Juvenile Justice and Delinquency Prevention Act (JJJPA), including key guidance on tracking racial and ethnic disparities. This guidance should be reviewed and updated in light of the reauthorized JJJPA, and promptly reissued.

**FIRST TERM PRIORITIES FOR THE ADMINISTRATION:** In addition to the urgent issues identified above, there are other youth justice priorities that the incoming administration should prioritize in their first term.

**V. Remove youth from adult courts, jails, prisons.** Prosecuting youth in adult court substantially increases the likelihood that youth will re-offend, and youth placed in adult jails and prisons are at the highest risk of harm and abuse. The federal government can remove youth from the adult criminal justice system by:

- Fully funding the [Juvenile Justice & Delinquency Prevention Act](#) (JJJPA) to ensure that every state has resources and technical support necessary to implement the updated requirements of the Act, particularly the provisions to remove youth from adult jails.
- Prioritizing and incentivizing states and localities to fully implement the [Prison Rape Elimination Act's \(PREA\) Youthful Inmate Standard](#) to completely remove all youth from adult jails and adult prisons.
- Supporting the final three states (Georgia, Texas, and Wisconsin) to raise the age of juvenile court jurisdiction through grant support, technical assistance, and federal guidance.
- Investing and supporting youth courts and diversion programs through grants, training and technical assistance.
- Eliminating life without the possibility of parole or release and de facto life sentences for children through the use of a judicial review process.
- Eliminating mandatory and discretionary transfer laws to the adult criminal justice system for youth at the federal level and supporting states to do the same through grant support, technical assistance, and federal guidance.

**VI. Invest in youth in their communities.** Reducing youth incarceration is the first step in the right direction, but we also need to invest in communities so we can begin addressing the underlying issues in young people's lives. The federal government can invest in youth in their communities by:

- Directing the [Federal Coordinating Council on Juvenile Justice](#) to expand technical assistance to localities to maximize existing federal funding opportunities to create and expand a continuum of care for youth in their communities, such as [Every Student Succeeds Act](#), [Families First Prevention Services Act](#), [Workforce Innovation & Opportunity Act](#), [Chafee Foster Care Independence Program](#), [Victims of Crime Act](#), [Affordable Care Act \(Medicaid Expansion\)](#), [Americans with Disabilities Act](#), [Runaway & Homeless Youth and Trafficking Prevention Act](#) and the [Community Development Block Grant program](#).
- Supporting state efforts to invest in cost effective, community-based alternatives to incarceration, such as restorative justice practices.
- Ensuring directly impacted youths' access to federally funded youth-serving programs (e.g. mentoring, after-school, community service, youth employment, and housing) by removing barriers to participation (e.g. juvenile or criminal records, participation fees, probation/electronic surveillance, non-accessible settings, etc.).
- Supporting legislation that requires law enforcement training at the academy level as well as continued training that requires developmentally appropriate, trauma-informed, racially equitable policies and practices for interacting with youth.
- Issue policies for law enforcement agencies, developed in conjunction with youth advocates, psychologists, and other community stakeholders promoting best practices for all police/youth interactions to promote developmentally appropriate, trauma-informed, racially equitable approaches to policing youth

**VII. Center federal youth justice policy on directly-impacted youth and their families.** An effective continuum of care puts communities at the center of the process so that the people closest to a youth can drive the outcomes. The federal government can support an effective continuum of care by:



- Creating a White House Office on Children that can coordinate efforts across the executive branch, ensure adequate investments that prioritize children and youth, and establish a Youth Advisory Council that would allow the administration to hear directly from young people.
- Establishing a federal youth advisory committee to the U.S. Department of Justice comprised of directly impacted youth representing all regions of the country to advise federal agencies on all aspects of youth justice policy and programs.
- Partnering with philanthropic foundations to create a new two-year youth fellowship program for a minimum of five directly impacted youth to work at federal agencies and with Congressional committees to advise on all youth policy and programmatic areas.
- Establishing 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.
- Creating incentives for Statewide Family Engagement Centers (SFECs) to integrate support services for families involved in the justice system.
- Ensuring performance measures across federal programs and grants are intentional about driving successful outcomes for youth with multiple barriers.
- Initiating a “[Families of Incarcerated Children](#)” program in the Children’s Bureau of the Administration of Children and Families at the U.S. Department of Health and Human Services to provide information on parent resources, peer-to-peer supports for families, and best practices on supporting families. This should include promoting best practices for law enforcement on treatment of children during parental arrest.
- Supporting new and expanded funding streams at local, state, and federal levels that can achieve the scale required to implement policy changes.

**VIII. Ensure fairness and equity for justice-involved youth.** While youth incarceration has decreased, not all youth benefited equally from reforms. The federal government can help create a fair and equitable system by:

- Ensuring strong implementation of the updates to the Racial and Ethnic Disparities (RED) core protection in the Juvenile Justice and Delinquency Prevention Act (JJDP A). Increasing funding for Tribal juvenile justice systems with a focus on culturally competent, trauma responsive, community-based alternatives to incarceration.
- Ensuring fairness and equity for LGBTQ youth, youth with disabilities, and cross-over youth (those young people who have been involved in the child welfare system and have crossed over into the justice system) by promoting non-discrimination, accessible services, and cultural competence in community-based alternatives to incarceration.
- Addressing the specific needs of justice-involved girls by providing specific, targeted support for local and state efforts to implement best practices with respect to at-risk and system involved girls.
- Increasing trauma-informed/trauma-responsive approaches in recognition of the role trauma plays in the lives of youth who are part of racial and ethnic groups that do not enjoy the same level of privilege and protection.
- Ensuring fair and adequate representation of system-involved youth by providing best practices and technical assistance for states regarding the legal representation of youth.
- Fully funding the Civil Rights Division of the U.S. Department of Justice and the Department of Education so they can respond to allegations of mistreatment, abuse, and exclusion of youth based on race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, and disability; and enforce youth due process, equal protection, and other constitutional and statutory rights within state and local juvenile justice systems.

- Eliminating federal support for policies and practices that contribute to the school-to-prison pipeline, including federal funding for school resource officers and school hardening measures such as the [Counseling Not Criminalization in Schools Act](#).
- Enacting federal legislation, such as the [End Debtors' Prisons for Kids Act](#), which would incentivize the elimination of juvenile fines and fees and provide technical assistance and best practices to localities, so that localities can eliminate fees to families for detaining or incarcerating their children in the justice system, as well as fees & fines across the justice system.
- Protecting immigrant youth by ensuring that all immigrant youth are placed with families and not in detention while pending immigration hearings; clarifying that federal law does not require citizenship data sharing between state and local law enforcement and federal immigration authorities; incentivizing states not to use gang databases; supporting and investing 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; and prohibiting juvenile adjudications as bars to citizenship or other legal status.

## IX. Invest in primary prevention.

- Utilizing Title V of the JJDPA, the administration will support localized responses to delinquency prevention by investing in mentoring, opportunities, entrepreneurship and other positive youth development programs.
- The administration will convene experts in child welfare, youth justice and mental health, including youth and families who are involved in multiple systems to identify policies and practices that reduce cross-over and identify community based services that help stabilize families in crisis.
- Continue funding for solutions to children and families who are exposed to violence, experience multiple adverse childhood experiences, and that promote culturally sensitive trauma and healing practices.

## X. Improve conditions of confinement for incarcerated youth. To address the [recent](#) and [well-documented abuses](#) in juvenile and adult facilities nationwide, including the use of dangerous practices such as restraints and seclusion, facility staff needs to be trained on trauma-informed, effective behavior-management techniques to respond to dangerous or threatening situations. The federal government can help ensure the safety of justice-involved youth 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.
- Allowing 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.
- Enacting federal legislation to amend the Prison Litigation Reform Act to exempt all youth under the age of 21 from the statute's requirements to ensure youth have access to the courts and are properly protected from abuse in institutions such as is found in the [Justice for Juveniles Act](#).



- Ensure the educational rights of young people in confinement are being met by:
  - Fully implementing Title I, Part D of the Every Student Succeeds Act, including more robust reporting requirements;
  - Clarifying for states the current and expanding data collection requirements of the Civil Rights Data Collection pertaining to education of youth in facilities;
  - Working across USED and DOJ/OJJDP to ensure relevant provisions in both the Every Student Succeeds Act and the Juvenile Justice Delinquency Prevention Act are being appropriately coordinated and implemented.

**XI. Support youths' re-entry from the justice system.** For youth to transition out of the justice system and to become successful adults, they need a broad range of supports. The federal government can support successful re-entry by:

- Increasing protections for youths' court records by enacting legislation to incentivize states to seal and expunge juvenile records, establishing standards for record accuracy, and providing technical assistance to states and localities on best practices for sealing and expungement. This includes federal data collection by the FBI/DOJ and use/access to these records by other federal agencies (e.g. USDOT).
- Increasing collaboration between the U.S. Department of Justice and the U.S. Department of Labor in federal workforce and employment programs to prioritize justice system-involved youths' participation through the Opportunity Youth initiatives.
- Enacting legislation to restore Pell Grant eligibility for incarcerated youth, such as the [Restoring Education and Learning \(REAL\) Act](#), and enhancing collaboration between the U.S. Department of Justice and the U.S. Department of Education on ensuring justice system-involved youth can access Pell Grants for post-secondary education and training.
- Increasing funding for the Second Chance Act and the JJDPA to support youth re-entry.
- Requiring states to provide court-involved youth with state-issued identification, proper documentation for work, and encouraging voter registration.
- Increasing funding for the Reintegration Ex-Offenders (RExO) Program at the U.S. Department of Labor in order to support programmatic designs grounded in trauma-informed care, youth engagement, and flexibility to allow more tiered entry and exit points for youth.
- Enacting legislation to keep youth off sex offender registries.
- Identifying the specific re-entry needs of youth who are parents and their children.

**XII. Establish Youth Justice Action Month.** People around the country participate in Youth Justice Action Month in October to increase public awareness of the issues facing youth transferred to the adult criminal justice system and to provide people across the country with an opportunity to develop action-oriented events in their communities. The federal government should support this endeavor by:

- Issuing a presidential proclamation declaring October to be Youth Justice Action Month that highlights and atones for the myth and harms of the Superpredator era throughout its 25th anniversary in 2021.
- Urging all federal agencies to take action in the month of October to lift up opportunities within the agencies to support justice-involved youth.
- Encouraging businesses, local programs, nonprofit and public sector organizations to support Youth Justice Action Month.

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## Data Sources & Stats:

### Federal Juvenile Delinquency Statistics

FBI Arrest Statistics: <http://ojjdp.gov/ojstatbb/ezaucr/>

### Youth in Juvenile Court/The Juvenile Justice System

Easy access to juvenile court stats: <http://ojjdp.gov/ojstatbb/ezajcs/>

### Youth in Juvenile Correctional Facilities

Easy access to census of juveniles in residential placement:

<http://www.ojjdp.gov/ojstatbb/ezacjrp/>

### Youth in Adult Jails and Prisons

BJS annual survey of jails: <http://www.bjs.gov/index.cfm?ty=dcdetail&iid=261>

BJS annual survey of prisons: <http://www.bjs.gov/index.cfm?ty=dcdetail&iid=269>

### Juvenile Justice, Geography, Policy & Statistics

<http://www.jjgps.org/>

### State Juvenile Justice Laws

<http://www.ncsl.org/research/civil-and-criminal-justice/ncsls-juvenile-justice-bill-tracking-database.aspx>

### National Research Council

2014. Implementing Juvenile Justice Reform: The Federal Role. Washington, DC: The National Academies Press.

<https://doi.org/10.17226/18753>

Prevention:

Defending Childhood:

<https://www.justice.gov/sites/default/files/defendingchildhood/cev-rpt-full.pdf>





<https://www.promotesafecommunities.org/>