



**Written Testimony of
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in a hearing before

The United States House of Representatives
Committee on Education and Labor
Subcommittee on Civil Rights and Human Services

entitled

**“Examining Ways to Improve the Juvenile Justice System and
Support America's Young People”**

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Good morning Chair Bonamici, Ranking Member Fulcher, and members of the Civil Rights and Human Services Subcommittee. Thank you for inviting me to testify today about ways to improve the juvenile justice system and better support America's young people.

My name is Lisette Burton, and I am the Chief Policy and Practice Advisor for the international Association of Children's Residential and Community Services (ACRC). We are a non-profit association and resource for individuals and organizations that provide critical behavioral, mental health, and other supportive services to thousands of children and families across the United States and in twelve countries. ACRC provides training, research, and advocacy to advance innovation and best practices in the field.

I think it is fitting that you are hosting this hearing in May. It is Mental Health Awareness Month. Depending on the depth of system involvement, as many as 70% of young people in the juvenile justice system have a mental health diagnosis.¹ May is also National Foster Care Month. A Washington study revealed that as many as two-thirds of youth referred to juvenile courts had some level of involvement with the child welfare system.² A study of children in Pennsylvania concluded that children in foster care who experience 5 or more placements are even more likely to enter the juvenile justice system, at a rate of 90%.³

These statistics are striking, but even more impactful are the stories of young people who have experienced the justice system. This Committee has heard directly from young people in the past, and I hope you will again soon hold a roundtable to hear their firsthand accounts, understand their journeys, and consider their recommendations for ways we can better support the youth of America. Sloane from DC, Aeryn from Las Vegas, Ashley from Tallahassee, Kim from Omaha, Sonya from New Orleans, Jim from New York...these are a handful of the young people I know who have shared their stories with Congress. Their experiences ring in my ears as I sit with you today, and I appreciate the opportunity to be here.

To make a difference for young people, this Committee can do three things:

1. Support a continuum of high-quality services and supports for youth and families;
2. Increase investments and work across system silos, considering the various funding streams and sectors that support youth and family well-being; and
3. Support implementation and funding of the Juvenile Justice and Delinquency Prevention Act.

¹ Development Services Group, Inc., *Intersection Between Mental Health and the Juvenile Justice System*, Office of Juvenile Justice and Delinquency Prevention (2017), available at <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/intsection-between-mental-health-and-the-juvenile-justice-system.pdf>.

² Gregory Halemba and Gene Siegel, *Doorways to Delinquency: Multi-system Involvement of Delinquent Youth in King County (Seattle, WA)*. National Center for Juvenile Justice (2011), available at <https://www.modelsforchange.net/publications/304/>.

³ Over 90% of foster youth who move five or more times will end up in the juvenile justice system. J.P. Ryan, & M.F. Testa, *Child Maltreatment and Juvenile Delinquency: Investigating the Role of Placement and Placement Instability*. *Child & Youth Services Rev.* 227-249 (2005) at 230.



I. Youth and Families Deserve a High-Quality Continuum of Services and Supports

Children are different from adults. The brain science and our Supreme Court have confirmed this fact time and again. This is the reason why we have a juvenile justice system, separate from the adult system, meant to focus on rehabilitation and acknowledge the limitless potential young people have to change and grow.

The good news is that arrests of young people under 18 have declined by 74%⁴ and the number of young people under 21 placed out of home due to justice system involvement has declined more than 65% since 1997.⁵ We are trending in the right direction overall, but racial and ethnic disparities persist – Black and Native American youth continue to be more likely to face arrest and confinement⁶ – and we continue to incarcerate too many young people who would be best served in their own homes and communities.

To transform the juvenile justice system and better support young people and families, we need to close harmful youth prisons – many of which are already under capacity⁷ and not necessary for public safety – and invest in a continuum of approaches and services that prevent system contact, provide effective intervention when needed, and ensure young people who do touch the system or require out-of-home care do not cycle back into the system.

A. Preventing System Contact

The Juvenile Justice and Delinquency Prevention Act (JJDP) provides federal funding for distribution by state advisory groups to address local problems with local solutions. I am an appointee to the DC Juvenile Justice Advisory Group, and we have focused our attention and resources on decriminalizing “persons in need of supervision” (PINS) status and decreasing truancy in the District as a form of delinquency prevention.⁸

⁴ Charles Puzanchera, *Juvenile Justice Statistics National Report Series Bulletin: Juvenile Arrests 2019* (2021), available at <https://ojjdp.ojp.gov/publications/juvenile-arrests-2019.pdf>.

⁵ In 1997, point in time data indicated that 105,055 young people were placed in a facility. In 2019, that number was 36,479. Melissa Sickmund, et al., *Easy Access to the Census of Juveniles in Residential Placement* (2022), available at <https://www.ojjdp.gov/ojstatbb/ezacjrp/asp/display.asp>.

⁶ OJJDP Statistical Briefing Book, available at <https://www.ojjdp.gov/ojstatbb/corrections/qa08203.asp?qaDate=2019>.

⁷ Charles Puzanchera, et al., *Juvenile Residential Facility Census Databook* (2020), available at https://www.ojjdp.gov/ojstatbb/jrfcdb/asp/display_profile.asp.

⁸ With 2010 data indicating 20% of school children in the District were truant with 15 or more unexcused absences, the Juvenile Justice Advisory Group decided to focus on delinquency prevention and truancy under the Title II 3-year plan 2011-2014 process. Executive Office of the Mayor Justice Grants Administration. *2011-2014 Comprehensive Juvenile Justice State Plan*. (2012), available at http://jga.dc.gov/sites/default/files/dc/sites/jga/page_content/attachments/2012%20DC%203-year%20plan_0.pdf.



In a report entitled “Create New Opportunities for “Persons in Need of Supervision” (PINS) to Succeed Without Legal System Intervention,”⁹ informed by community surveys and local data, we concluded that connecting existing community resources to children and families outside of police or justice system contact would more effectively help children thrive.

Truancy increases the likelihood that a youth will drop out of school, use substances, or become involved in the juvenile justice system.¹⁰ Additionally, studies have shown that chronic early absence from school may reflect the impact that high levels of community violence have on children and their caregivers, particularly if safe routes to school are a challenge.¹¹ Comprehensive efforts to address the factors that contribute to truancy can improve academic achievement and decrease delinquency.¹²

In DC, the “Show Up, Stand Out” Community-Based Truancy Reduction grant program provides wrap-around services to children in multiple schools. Program evaluation has revealed how successful community-based organizations were in helping the identified families. 79% of participants who received comprehensive services improved their year-over-year attendance, and 76% were not referred to the program for a second year.¹³ Many families also reported improved home life conditions.

Although we will have to wait for longitudinal studies to confirm that early intervention around identified problems like truancy prevents future delinquency, the early indicators strongly support the theory that positive family engagement can dramatically improve patterns of behavior. This is a cost-effective approach on the front end of the spectrum of care that could improve outcomes for youth long-term, and similar strategies around parent training and support and family services should be funded to engage families prior to court involvement.

B. Community-Based Services and Other Alternatives to Incarceration

Community-based and family-centered treatment for youth has been shown to be far more effective and cost-efficient than incarceration. Research has shown us what methods and

⁹ *Create New Opportunities for “Persons in Need of Supervision” (PINS) to Succeed Without Legal System Intervention* (2019-2020), available at <https://ovsjg.dc.gov/page/create-new-opportunities-persons-need-supervision-pins-succeed-without-legal-system>.

¹⁰ Eileen M. Gerry. *Truancy: First Step to a Lifetime of Problems*. OJJDP Juvenile Justice Bulletin (Oct. 1996).

¹¹ Hedy N. Chang and Mariajose Rivera. *Present, Engaged, and Accounted for: The Critical Importance of Addressing Chronic Absence in the Early Grades*. National Center for Children in Poverty Report (Sep. 2008), available at http://www.nccp.org/publications/pdf/text_837.pdf.

¹² See Paul Ashton. *The Education of DC: How Washington D.C.’s investments in education can help increase public safety*. Justice Policy Institute (2013), available at <https://www.njcn.org/uploads/digital-library/The-Education-of-DC-How-Washington-DC-Investments-in-Education-Can-Help-Increase-Public-Safety-Paul-Ashton-Justice-Policy-Institute-2.15.12.pdf>.

¹³ Choice Research Assoc. *Show Up, Stand Out: An Attendance Program of the District of Columbia Justice Grants Administration – Year 1 (2012-2013) Top Line Evaluation Findings*, at http://dcist.com/2014/09/show_up_stand_out_program.php.



techniques work with youth and that even short stays in detention have a negative impact.¹⁴ Some communities have already implemented new practices with good results, and for every dollar invested in community-based youth development and prevention efforts, we dramatically reduce delinquency and save taxpayers in future costs.¹⁵

For young people who cannot remain safely at home, the six domains of Positive Youth Justice provide a helpful frame for a wholistic approach to supporting young people.¹⁶ These elements can be applied to any service offered in any setting, but they become critical when we are talking about out-of-home placement. Too often the conversation starts and stops at “placement,” meaning a place for a young person to go. We should truly be centering our conversations and planning around “purpose,” not “placement.” Questioning what happened to a child and what need should be met or what skills need to be developed, can often lead to a much more productive conversation regarding what purposeful intervention can match that young person’s individualized circumstance.

When it is determined that a youth’s needs cannot be met safely in their own home, there are certain features that all therapeutic residential interventions should have if they are going to provide quality, life-changing care.

First and foremost, programs must be safe. One of the reasons youth advocates are opposed to secure detention facilities is due to the level of violence youth experience while in such settings. Second, programs must have qualified, well-trained staff, preferably with a regular accreditation or certification process. Ideally, this includes an extensive pre-service training where staff members are well-prepared before they first take over care of the youth, in addition to ongoing training, supervision, and support. Third, programs should be skill-based so that youth are gaining concrete outcomes that can be practically applied when they return to their families and communities. Fourth, programs must have a structured model of care. Too often, programs teach staff members various theories but don’t provide a structured framework to guide interactions and improve youth behavior, which leads to inconsistent outcomes based largely on the natural ability or charisma, or lack thereof, of individual staff members. Programs should utilize a manualized approach that has a system for replication with fidelity so that expectations, goals, and the method of youth progress are clear to all involved.¹⁷

¹⁴ Anna Aizer & Joseph Doyle, *Juvenile incarceration, human capital, and future crime: Evidence from randomly assigned judges*. *The Quarterly Journal of Economics*, 130(2), 759–803 (2015).

¹⁵ The Coalition for Juvenile Justice reports that “[f]or every dollar invested in community-based youth development and prevention efforts, we dramatically reduce delinquency and save taxpayers up to eight dollars in future costs.” See <https://www.juvjustice.org/federal-policy/federal-juvenile-justice-appropriations>.

¹⁶ The six domains are work, education, health, relationships, community, and creativity. Jeffrey A. Butts, *et al.* *Positive Youth Justice: Framing Justice Interventions Using the Concepts of Positive Youth Development*. Washington, DC Coalition for Juvenile Justice (2010).

¹⁷ See Sigrid James. *What Works in Group Care: A Structured Review of Treatment Models for Groups Homes and Residential Care*. 33:2 *Child Youth Serv.* 308–321 (Feb. 2011) (it is in the best interest of group care settings that genuinely try to deliver quality care to collaborate with service systems and researchers to identify the essential elements of their program, to critically review their program in light of the needs of the youth they serve, and to consider adopting or learning from the treatment models that already have an evidence-base).



Finally, services should be youth-guided and family-driven. Young people are more likely to find success when they are personally invested and have voice and choice in what is happening to them. And children are not islands – they come from family and community, and those family and community connections are key to success during and after any residential intervention.

We must also critically consider why youth are being placed in facilities. Most young people who are in a juvenile justice facility are placed in a public facility as opposed to a private facility.¹⁸ An even closer look at the data reveals that over 21% of young people in private facilities are placed due to a status offense, primarily truancy or running away, or a technical violation.¹⁹ Eliminating the Valid Court Order (VCO) Exception²⁰, which permits a judge to remand a youth to detention for an offense that would not be a crime but for the young person's juvenile status, is one concrete way we could reduce youth confinement.

C. Aftercare and Re-Entry Services Are Critical to Ensure Youth Successfully Exit the Juvenile Justice System

Intensive aftercare is crucial for youth who have a high risk of offending.²¹ Youth in high quality, therapeutic interventions may demonstrate growth and improvement even within a few months, but every young person should continue to receive family-based services upon completion of a residential intervention to ensure a successful transition back into the home and community. Supporting youth re-entry is one the key recommendations consistently made to Congress by the National Juvenile Justice and Delinquency Prevention Coalition.²² Funding should be directed to supportive transitions home if young people are expected to continue positive trajectories that begin in quality out-of-home care.

School is an integral part of a young person's life, regardless of where they reside to receive services. With 75% of state prison inmates lacking a high school diploma,²³ the importance of secondary school completion in increasing positive results is clear, and so aftercare and re-entry

¹⁸ Of the 36,479 children in juvenile facilities in 2019, 27,035 were placed in public facilities and 9,444 were placed in private facilities. Melissa Sickmund, *et al.*, *Easy Access to the Census of Juveniles in Residential Placement - Detailed Offense Profile in Public and Private Facilities for United States, 2019* (2021), available at https://www.ojjdp.gov/ojstatbb/ezacjrp/asp/Offense_Facility.asp.

¹⁹ In 2019, out of 9,444 children, 1004 children were placed in a private facility due to technical violations and 1,024 were placed due to a status offense. *Id.*

²⁰ Coalition for Juvenile Justice, *Safety, Opportunity, and Success (SOS) Standards of Care for Non-Delinquent Youth*, Section 4.10, available at <https://www.juvjustice.org/our-work/safety-opportunity-and-success-project/national-standards/section-iv-recommendations-poli-1>.

²¹ David Kingsley, *et al.* *Cox Proportional Hazards Regression Analysis as a Modeling Technique for Informing Program Improvement: Predicting Recidivism in a Boys Town Five-Year Follow-up Study*. American Psychological Assoc. Vol. 1:1 *Journal of Behavioral Analysis of Offender and Victim Treatment & Prevention*, 82 (2008) (youth in this study had an average length of stay of 18 months).

²² National Juvenile Justice and Delinquency Prevention Coalition. *Promoting Safe Communities: Recommendations to the 115th Congress*, at http://www.act4jj.org/sites/default/files/resource-files/2017_Promoting_Safe_Communities_FINALVERSION.pdf.

²³ C.W. Harlow. *Education and Correctional Populations*. Washington, DC Bureau of Justice Statistics. NCJ Publication No. 195670, 1–11 at 3 (2003), available at <https://bjs.ojp.gov/content/pub/pdf/ecp.pdf>.



services must center partnership and alignment with school. Emphasis on tutoring, behavioral supports, and school ties to teachers and others who know and can continue to support individual youth are crucial to a successful long-term outcome.

II. Congress Can Improve Outcomes by Increasing Investments and Working Across Traditional Silos

The COVID-19 pandemic has exacerbated negative trends in the mental and behavioral health status of children and adolescents worldwide, leading UNICEF to, for the first time, examine mental health in the report *The State of the World's Children 2021*. Advocates and experts in multiple countries, including the United States, have declared national emergencies as doctors and children's hospitals have noted significant increases in youth mental health emergency room visits and increased rates of depression, anxiety, and suicide.

Multiple committees in Congress, including the Committee on Education and Labor, have held focused hearings on this very topic.²⁴ This is a challenge that this Committee is uniquely positioned to address. With jurisdiction over both education and juvenile justice, the Committee can and should incentivize states to recognize and treat trauma and mental illness across all systems that serve children. For that strategy to produce better outcomes, those systems must communicate and collaborate. The child and adolescent mental health emergency is not a problem for mental health professionals alone to tackle. We need all hands on deck, and all systems contributing to a public health approach to solving this problem.

Various federal funding streams can be used to improve youth mental health, prevent delinquency, and support the well-being of children and families. For example, children with disabilities are overrepresented in the juvenile system²⁵ – funding through the Individuals with Disabilities Act can be leveraged to better support students' transition plans and other services for older students. Children in foster care are overrepresented in the juvenile system²⁶ – funding through Title IV-E of the Social Security Act, which now supports prevention services due to passage of the Family First Prevention Services Act, can be used to help keep families intact through evidence-based services provided to candidates for foster care. Multiple states have made this connection and included youth and families who have touched the juvenile justice system in their candidacy definition. Children with mental health diagnoses are overrepresented in the juvenile justice system²⁷ – funding for mobile crisis response and related efforts to change who first responds when a person is having a mental health emergency,

²⁴ US House of Representative, Committee on Education and Labor Hearing. "Meeting the Moment: Improving Access to Behavioral and Mental Health Care." April, 15, 2021, available at <https://edlabor.house.gov/hearings/meeting-the-moment-improving-access-to-behavioral-and-mental-health-care>.

²⁵ Aleksis Kincaid & Amanda Sullivan, *Double Jeopardy? Disproportionality in First Juvenile Court Involvement by Disability Status*. *Exceptional Children* Vol. 85 Issue 4 (2019), available at <https://journals.sagepub.com/doi/full/10.1177/0014402918819101>.

²⁶ See *supra* notes 2&3.

²⁷ See *supra* note 1.



including pending implementation of the national three-digit 988 crisis line, are key to end over policing of children and communities.

Thinking intentionally, across traditional system silos, will lead to more creative, impactful solutions for communities.

III. The Juvenile Justice and Delinquency Prevention Act is Critical to System Transformation

Most importantly, the Juvenile Justice and Delinquency Prevention Act (JJDP A), first passed in 1974 and last reauthorized during the 115th Congress²⁸, is the only federal funding stream that specifically supports, and creates federal oversight for, youth justice. Federal investments play an essential role in state juvenile justice efforts to protect youth, prevent delinquency, and promote safe communities. Current funding levels are still well below what they were 20 years ago and far from what is needed to adequately provide services and supports for young people and their communities.

Title II of the JJDP A provides federal funding to states to promote delinquency prevention and support compliance with federally-mandated core requirements designed to protect children from the dangers of placement in adult jails and lockups; keep status offenders/non-delinquent children out of locked custody; and address the racial and ethnic disparities faced by youth of color in the justice system.

Title V of the JJDP A is the only federal program that provides delinquency prevention funding at the local level to reach young people and help keep them out of the juvenile justice system. The Juvenile Justice Reform Act of 2018 renamed this title “Incentive Grants for Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education (PROMISE),” expanded the uses of this grant program to include 29 funding areas, and established local youth councils to develop prevention programming that ensure the needs of at-risk youth are being met.

The JJDP A has been an extremely successful federal law, yet cuts to these programs have weakened the federal-state partnership and stymied national, state, and local progress. As we prepare for the next round of JJDP A reauthorization, Congress should not only increase funding but also consider what the latest research is telling us, what additional data we need, and incorporate opportunities for states to innovate and create new strategies that will continue to improve outcomes for children.

Conclusion

Now more than ever, after two years of a global pandemic, as young people are faced with unprecedented levels of trauma and uncertainty, we need to invest in our youth and their families. One of the most important things we can do to reduce the impact of justice system

²⁸ Juvenile Justice Reform Act of 2017, H.R. 1809, 115th Cong. (1st Sess. 2017).



involvement, and the associated societal and economic costs, is to support effective prevention and intervention strategies for children, adolescents, and young adults. Thank you for your time and I look forward to answering any questions you may have.