

**JUVENILE JUSTICE AND REFORM:  
A COMPREHENSIVE LOOK AT HOW THE UNITED STATES PUNISHES  
JUVENILES**

By:

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A thesis submitted to the Faculty of the University of Delaware in partial fulfillment of the requirements for the degree of Honors Degree in Political Science with Distinction

Spring 2018

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## **ACKNOWLEDGMENTS**

First and foremost, I'd like to thank my parents. Without my mom and dad I would have never been able to realize this dream. Their constant support during my life has given me the confidence to follow my passions, and their planning has allowed me to have the best experiences possible. I will never be able to repay the wonderful life they have provided for me, but I will always be thankful.

Next, I have to thank Dr. Kupchik. This project began in his Juvenile Justice class. That class exposed me to an area of law I had never considered, and inspired me to pursue projects to help reform the system. Not only has he been a mentor in the writing of this thesis, but he has also happily contributed to other juvenile justice projects I have been involved with. Without this spark, projects like this would not have been possible.

I'd also like to thank Dr. Batchis, who has encouraged me through many different projects in my time at the University of Delaware. His support has been instrumental in allowing me to pursue my various interests. Without his flexible and ongoing support I could not have accomplished many of my goals.

Next, I'd like to thank Dr. Davis for his important input. His support of my group mates and myself was essential to our success.

Finally, I'd like to thank Dr. Barsky for her continued assistance and contribution. Her encouragement was vital during the middle stages of this product. Her reassurance was equally as valuable.

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## **ABSTRACT**

In the United States, the Juvenile Justice system is flawed. Despite ongoing research into how to best improve the rehabilitative methods utilized, federal legislation and aid has been delayed. The Juvenile Justice and Delinquency Prevention act has not been reauthorized, and is eleven years overdue. Reviewing previous authorizations, and understanding the overall history of the Juvenile Justice system in the United States allows one to understand why the reauthorization is necessary. The federal government must reauthorize new legislation, and implement reforms in order to continue to better the Juvenile Justice system. Federal legislation on Juvenile Justice is important as it establishes a base standard of care, as well as provides funding for states to modernize their practices. The reforms must be based on evidence-based research, as well as being trauma-informed. These reforms should include preventative measures, such as furthering instruction for educators on sociological observations about the harms of School-to-Prison pipeline and Labeling Theory. It should also include the eradication of exceptions that allow for status offenders to be incarcerated. Juvenile offenders have the best chance to at aging out of crime, and becoming law-abiding adults, but in order to accomplish this goal the federal government should pass the legislation furthering reforms.

## **Chapter 1:**

### **INTRODUCTION**

This paper explores the complexity of legislating for the national level of the Juvenile Justice system. In order to best understand the Juvenile Justice system it is important to acknowledge the long history and many reforms the system has gone through. Over time the mission of the system has shifted. At one time the justice system was more rehabilitative and less formalized. Over time the system shifted to become more punitive. These swings have produced various laws, and thus different outcomes. Understanding this history of the justice system allows current legislators to create the most effective policy. The new legislation passing through Congress should consider the history and the knowledge gained from past reforms, and implement changes using the modern research that is now available in order to create a system that works towards limiting juvenile crime.

First, in the introduction it is explained why it is important to pursue reforms to juvenile justice in the United States at the federal level. Chapter Two focuses on the history of the Juvenile Justice system in the United States, and the effects of having a justice system too far to one end of the spectrum, informal and rehabilitative, and formal and punitive respectively, was not effective. Chapter Two focuses on the early system established, and the sharp turn the system took in the 1980s. Chapter Three reviews the current legislation that is pending in Congress. It explores the similarities in the pieces of legislation, as well as the differences and the reason for those differences. Finally, Chapter Four analyzes the legislation, and suggests future

reforms. This paper focuses on current legislation, and therefore does not include the entire history of the justice system. It does not include exploration into how gender, or race effects contact with the Juvenile Justice system. The purpose of this paper is to explore pending legislation at the national level, and future reforms that could be implemented in the future.

Before the 19<sup>th</sup> century, the United States did not have a separate juvenile justice system. If a child committed a more serious offense, they would be taken into the same justice system as would adult offenders. While, in the early years of the United States the juvenile justice system was simply the adult system, today, the Juvenile Justice system has evolved into a massive institution. In 2015, the national placement rate for juveniles was 152 to 100,000 youths (Puzzanchera and Hockenberry, 2017). This means that across the United States for everyone 100,000 people under the age of 18, there were 152 that were residing in a residential placement center within the justice system. These juveniles represent both a danger for society, and a group that the government needs to protect. Juveniles are unique offenders for many reasons, but one of the most important factors that sets juvenile offenders apart from adult offenders is that 40-60% of juveniles will age-out of crime (Justice and Facilities, 2018). This creates a sort of paradox. The government needs to rehabilitate these juveniles, while also punishing them. It has been shown that if the juvenile does not age out of crime, his or her crimes will become more severe and lethal (Justice and Facilities, 2018). Therefore, the government is put in the position of punishing the offending juveniles in order to heal the community, while teaching the offender coping mechanisms that allow them to break the cycle of crime in the future.

Striking this balance between punitive and rehabilitative is not easy. In the early years of the United States of America, the new country adopted the British system of justice, when it comes to dealing with children. During that time, children that committed any significant criminal offense would be tried as an adult. If they committed some smaller offense they would just be shamed, or subjected to corporal punishment. Thus, in early American history, children were essentially treated as adults (CRS).

This system changed in 1899, when the first Juvenile Justice court opened in Chicago (CRS). This court was based off of the idea of *Parens Patriae*. This means that these first Juvenile Justice courts were based off of the notion that it was the responsibility of the Court to act as a parent to juvenile delinquents. This idea informed the nature of the system and resulted in an institution with an entirely different set of rules than the adult system. For example, this version of the juvenile justice system eliminated indictments, pleadings, and jury trials, and instead allowed judges flexibility in how they ruled over court proceedings. (CRS). Overall, the system was more informal than its adult counterpart.

While the Juvenile Justice system has evolved immensely in its relatively short history, the idea at the base of the system has stayed relatively constant. The creation of the system was based on the assertion that juvenile offenders should be handled separately from adult offenders in order to allow them the opportunity to grow and evolve in ways that would lead to reduced criminal action in the future. Studies such as Howell's 2001 research on what works and on what doesn't work in the juvenile justice system points to rehabilitative methods, rather than punitive or deterrence based programs, as being more effective at preventing future crime. In the modern age



of punishment, it seems that the reaction is to automatically arrest and incarcerate anyone found to be guilty of a crime (Justice Policy Institute and Institute). While incarceration may be an effective way to protect the victims, it can have harmful effects on the juveniles, which can negate any rehabilitative efforts (Howell).

In the modern era of the United States, many problems plague the government. Many of these issues could be summarized by one fact: the government needs more money. If the government retained more money, then they could provide universal healthcare, they could help more people, they could take in more refugees, they could provide better welfare services, and so much more. This is where reform in the Juvenile Justice system could prove useful. The mass incarceration epidemic is an ineffective method of rehabilitating juveniles, and it is also a costly method. In the United States, about \$5.7 billion dollars are spent every year incarcerating juveniles. Most of these youths are nonviolent offenders, meaning that they could be safely managed in other forms of community rehabilitation (Justice Policy Institute and Institute). In an age where the mounting national debt concerns many, reform in the Juvenile Justice system could help in reducing the growing deficit. According to the National Institute of Justice, rehabilitative methods such as functional family therapy and multidimensional treatment foster care will save \$10 for every \$1 spent and \$8 for every \$1 spent respectively (Justice Policy Institute and Institute). Reforming the Juvenile Justice system will not only aid those embroiled in the system, it will also decrease the burden these services place on taxpayers.

All in all, the Juveniles Justice system may not be a hot political topic at the moment in Washington, but the results could be extremely beneficial. By reforming the Juvenile Justice program through federal legislation, the government can provide

effective preventative and rehabilitative programs for the Juvenile Justice system and ensure that government funds are utilized efficiently, and that juveniles receive help and can live a law-abiding life.

## **Chapter 2:**

### **HISTORY OF THE JUVENILE JUSTICE SYSTEM:**

To understand why it is in the best interest of the United States to maintain the most effective version of the Juvenile Justice system, it is important to understand how the system has developed. Prior to the creation of the Juvenile Justice, the United States incarcerated juvenile delinquents with adult offenders. Following the American Revolution, the incoming government elected to keep this system of juvenile justice, as it was a British institution with which the new Americans had no grievances.

Adopting the British form of juvenile justice meant that in the United States children were given no distinction within the justice system until the 19<sup>th</sup> century. They were simply treated as small adults. William Blackstone, an influential English legal scholar, defined the two categories of people in the legal system. The first he called “infant”, and that category encompassed children that were too young to understand fully the consequences of their actions (ABA Division of Public Education). The standard of infant was traditionally applied to children under the age of seven. If a child was included in the infant category then they could not be found guilty of a serious crime. The other category, according to Blackstone, was “adults”. This could include children as young as fourteen years old (ABA Division of Public Education). Though, there is an undefined area in this system. From the age of seven to fourteen, if a child committed a crime it would be the duty of those in the system to determine whether the child possessed the ability to recognize the difference between right and wrong (ABA Division of Public Education). If those in the legal system

determined that the capacity to differentiate between right and wrong was present in the child, they would be subjected to the legal system. If not, the community and the parents of the offending child would be left to punish them as they saw fit.

This system began to undergo reform during the 19<sup>th</sup> century, as the societal norms within the United States began to change, and more scientific research was conducted on the difference between children and adults. The first effort to reform the Juvenile Justice system in the United States took place in Chicago in 1855 (ABA Division of Public Education). This institution, called The Chicago Reform School, focused on separating juvenile and adult offenders. Once separated, those at the Chicago school worked to help rehabilitate the offenders in order to stop them from turning to a life of crime (ABA Division of Public Education). This was the first step to the Juvenile Justice system being developed in the United States, and it shows the underlying principle of the juvenile justice system, which is rehabilitation. The reformers understood that they had the ability to rehabilitate offending children, and worked to separate them from the influence of older offenders who could encourage future criminal behavior.

The reform school in Chicago was followed up by the first separate Juvenile Courts in Illinois in 1899 (ABA Division of Public Education). This trend quickly spread throughout the country. These newly developed courts were created with distinct differences from the adult counterpart. Again, these courts centered on the ability of young minds to be molded into law-abiding adults, and the differing motives of juvenile delinquents and adult criminals.

One important difference between the Juvenile Justice system and the adult justice system was the Juvenile court was not punitive in nature. Instead, the new

system for youth was based on the ideology of *Parens Patriae*. This legal doctrine translates to the State as a Parent (Justice and Griscom). The principle of *Parens Patriae* was used to justify the courts ability to intervene with a child due to their life circumstances, as well as delinquent acts. Just like The Chicago Reform School, this system operated as a rehabilitative system. Included in the new system of justice was the idea that juveniles deserved individualized attention from the judges (Justice and Griscom). All in all, the first Juvenile Justice system created in the United States was a dramatic departure from the highly punitive nature of the established adult system. In order to ensure the rehabilitative nature of the new system, the infrastructure was specifically created to be more informal, and this proved to be problematic.

In the 1950s and 1960s the public became aware that there were drawbacks to running the juvenile courts in such an informal manner. The first time the United States government addressed the flaws of an informal system was in the Supreme Court case *In Re Gault*. This 1967 case epitomized how the informality of the juvenile system could be abused. In the case a teenager was arrested for making an obscene phone call to a neighbor. At the time of his arrest, the fifteen year olds parents were not notified. The next day there was a hearing and at this hearing the complainant was not present, there was no record taken, and no sworn testimony (The Oyez Project, *In Re Gault*). At the end of the hearing, the judge sent Gault back to detention in order to take time to determine the correct course of action. Gault was released after several days, and another hearing date was set. Without the complainant testifying in court, the judge adjudicated Gault as a delinquent, and sentenced him to imprisonment until his twenty-first birthday (The Oyez Project, *In Re Gault*). This highlights the flawed nature of the system. The informality of the new Juvenile Justice system allowed

judges high levels of discretion, which led to lack of standardization. The case of *In Re Gault* is a clear illustration of how high levels of judicial discretion was harmful because if Gault had qualified as an adult the maximum sentence he would've faced would have been a maximum fine of fifty dollars or a two-month term in prison. Though the initial idea of an informal juvenile justice system seemed the best way to divert young offenders from following a life of crime, the system was easily perverted by lack of regulation and standardization.

The case of the prank caller eventually reached the United States Supreme Court. The Court granted certiorari in order to determine whether the Juvenile Code violated the Due Process clause of the Fourteenth Amendment of the Constitution in regards to the right to counsel, the right to notice, the right to confront witnesses, and the privilege against self-incrimination (The Oyez Project, *In Re Gault*). The Court ruled in favor of the teenager, finding that some rights applicable to adults in the Criminal Justice system, were also applicable to the juveniles involved in the legal system. These rights include: the notification of the juvenile, as well their guardians, of charges, sufficient time to prepare a defense, right to counsel if the charges could result in commitment of the juvenile to a facility, and the right against self-incrimination (The Oyez Project, *In Re Gault*). The Supreme Court also ruled that in order for a trial to result in a conviction and commitment, there must be sworn testimony with the opportunity to cross-examine the witness. This was the first legal decision in the United States that provided legal rights to juveniles engaged in the justice system, and was a significant step towards a more fair, just, and rehabilitative system.

While the 1960s and 1970s seemed to be a turning point towards a more

rehabilitative system of juvenile justice, the following years marked a setback in progress. While progress was established with the decision made in *In Re Gault*, outside influences contributed to a backwards swing. Throughout the Nixon administration, the United States was rocked by political scandals. Along with other social and political reforms, this resulted in a move towards conservatism, and away from idealistic views and want for reform. This new conservative society viewed juvenile crime to be rising, and they viewed the system as too lenient. As a result, states passed new punitive laws for juveniles. These laws included mandatory sentencing laws, as well as automatic transfers to adult courts for certain crimes (Justice and Griscom). This was regression from the progressive reforms due to the movement back to punishments, and treating children as adults.

The movement towards mass punishment for juveniles that developed in the 1980s in the United States began to wane again in the late 1990s. This trend has continued into the twenty-first century, and has culminated in several more influential Supreme Court decisions. These decisions have expanded and clarified the differences in rights and procedures between the adult criminal justice system, and the justice system for juveniles.

Throughout the beginning of the 21<sup>st</sup> century, there have been several noteworthy Supreme Court decisions dealing with the rights of juveniles, and the procedures of the juvenile justice system. In the decision of *Roper v. Simmons*, the Supreme Court prohibited the use of the death penalty against juveniles. In this decision the Court lays out three main characteristics that separate children and adults. First, there is a difference in the maturity level of adults and children. Children have a lower maturity level than their adult counterparts, and this leads to a diminished sense

of responsibility for their actions. Second, juveniles are more susceptible to outside influences compared to adults. Finally, children have not finished developing (National Juvenile Defender Center). All of these factors combined lead to the conclusion that children have a greater capacity to be reformed.

Five years after the decision in *Roper*, the United States Supreme Court issued another significant decision in regards to juvenile justice. In *Graham v. Florida* the United States Supreme Court expanded the *Roper* decision to prohibit the imprisonment of juveniles for life without the opportunity for parole. This was implemented because it was determined that juveniles could not contribute to their own defense at the same level as their adult equivalents (National Juvenile Defender Center). The ability to contribute to one's defense is essential to the United State's adversarial system of justice; therefore the Court viewed a child's lesser ability a significant hindrance that must be remedied. This decision is one in an important string in recent years that point towards an attitude of increased tolerance, and a need for reform for the Juvenile Justice system.

The final case in the twenty-first century that points to the need for differentiation of juvenile offenders, and reform in the juvenile justice system is the 2011 case of *J.D.B v. North Carolina*. The case of *J.D.B.* dealt with the issue of juveniles understanding their Miranda Rights. In this case, the child was not read his Miranda Rights. In the case of *Miranda v. Arizona*, the Supreme Court found that any person who was being held in police custody must be made aware of their rights including their right against self-incrimination and their right to an attorney. The case of *J.D.B.* added to this decision. In the opinion by Justice Sotomayor, the Court states that the conception of custody is the standard that is used to determine when Miranda



Rights should be recited. This conception of custody is influenced by the age of the recipient. Miranda Rights must be issued when a reasonable person would understand him or herself to be in police custody; in other words, when they believe they don't have the ability to leave. In *J.D.B.*, the juvenile was thirteen years old when police questioned him about a recent break-in. Only after he admitted to taking part in the robberies was he informed that he had the right to leave (National Juvenile Defender Center). The Supreme Court reversed the lower court's decision, and remanded the case back to the lower court for a decision on whether the child believed he was in custody (The Oyez Project, *J.D.B. v. North Carolina*). This case broadened the scope of rights for juveniles, as it made law enforcement consider the understanding of a child in custody, and allows for an earlier advising of rights.

While decisions handed down by the Supreme Court brought about reforms to the Juvenile Justice system, the Court did not accept every plea for an expansion of rights. Following the 1980s, the United States Supreme Court incorporated some rights from the adult justice system into the Juvenile Justice system, but it rejected the idea that all due process rights apply to juveniles. In 1971, in the case of *McKeiver v. Pennsylvania*, the Supreme Court denied incorporating the right to trial by jury to the Juvenile Justice system (ABA Division of Public Education). The case consisted of two teenagers who were accused of robbery, theft, assault, and escape. They were denied the right to have a trial by jury by the lower court. Justice Blackmun authored the opinion, which explained that the further development of the rights of juveniles involved in the legal system was to bolster the necessary action of fact-finding. Fundamentally, the Justice asserts that all action taken by the Court in regards to expanding the rights of juveniles had to do with the collection of facts. The Court

found that a trial by jury did not encourage more accurate fact-finding, and therefore was not an essential right that should be translated to the juvenile justice system (The Oyez Project, *McKeiver v. Pennsylvania*). This seems to be contradictory to the stated purpose of the jury. In criminal trials, the jury functions as the finder of fact. Therefore, it seems to naturally follow that a jury is not only necessary to accurately determine facts, but it is the sole avenue in which to do so.

Additionally, in the decision of *McKeiver v. Pennsylvania* the Court noted that juvenile justice cases were neither criminal nor civil, and thus the protections of the Sixth Amendment of the United States Constitution do not necessarily apply to those proceedings (The Oyez Project, *McKeiver v. Pennsylvania*). While this may seem inconsistent with the general trend of the late twentieth century and the early twenty-first century, this was an effort to maintain a distinct separation between the adult justice system, and the juvenile justice system.

Nevertheless, there have been other modes of reform outside of the United States Supreme Court. In 1950 the White House hosted the Midcentury White House Conference on Children and Youth. At this conference methods to strengthen juvenile courts, develop police services for juveniles, and to prevent and treat juveniles through social services, legal institutions, and after-care services were discussed and studied (OJJDP, “The Juvenile Justice and Delinquency Prevention Act of 1974: Prior Federal Juvenile Delinquency Activity”). After this, in 1961, the Juvenile Delinquency and Youth Offenses Control Act of 1961 was enacted. This act followed an increase in juvenile crime in the previous decade. The purpose of the act was to prevent the further spread of delinquency (Peters and Woolley). The act was ratified so that the federal government could lend leadership, guidance, and assistance to the local

juvenile justice systems. John F. Kennedy, the President who signed the legislation into law, remarked that the legislation was essential as young people are the future leadership of the country, and therefore the rising juvenile delinquency rates were a matter of national concern (Peters and Woolley). This would just be the first step in legislating reform for the Juvenile Justice system.

The Juvenile Delinquency and Youth Offenses Control Act of 1961 had a three-year authorization, and in 1964 Congress reauthorized the act until the end of the fiscal year of 1967 (OJJDP, “The Juvenile Justice and Delinquency Prevention Act of 1974: Prior Federal Juvenile Delinquency Activity”). This extension was granted in order to carry out a demonstration project happening in the District of Columbia. In the following year, Juvenile Delinquency and Youth Offenses Control Act of 1968 was enacted. This instructed the federal government to develop a nation-wide approach to decreasing juvenile delinquency (OJJDP, “The Juvenile Justice and Delinquency Prevention Act of 1974: Prior Federal Juvenile Delinquency Activity”). The states were individually tasked with creating and implementing comprehensive plans to decrease juvenile crime. Upon approval, these plans would allow states to receive federal grants. Also, in 1968 the federal government enacted the Omnibus Crime Control and Safe Streets Act of 1968. While this act was not specifically intended for juveniles, it authorized funding for programs aimed at controlling delinquency (OJJDP, “The Juvenile Justice and Delinquency Prevention Act of 1974: Prior Federal Juvenile Delinquency Activity”).

Finally, in 1974 the first version of the act that now governs juvenile justice was enacted. This act, the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP), was the first unified national program dealing with juvenile justice (OJJDP,

“The Juvenile Justice and Delinquency Prevention Act of 1974: Prior Federal Juvenile Delinquency Activity”). This act was authorized for three years, and had a budget of \$350 million. It also created the Office of Juvenile Justice and Delinquency Prevention (OJJDP), as well as a National Advisory Committee, a Federal Coordinating Council, and the National Institute for Juvenile Justice and Delinquency Prevention (OJJDP, “The Juvenile Justice and Delinquency Prevention Act of 1974: Prior Federal Juvenile Delinquency Activity”). This was a definite move towards reform as it unifies the national system, and sets standards for the many different juvenile justice systems. Finally, the Act mandated that states participating and eligible for grants must remove status offenders from detention within two years and not place juveniles in facilities that would allow them to have contact with adult offenders (OJJDP, “The Juvenile Justice and Delinquency Prevention Act of 1974: Prior Federal Juvenile Delinquency Activity”). This is an important step because by enacting this legislation, the government is acknowledging the backswing the system took by detaining status offenders. A status offender is a juvenile who commits an offense that would not be a crime if they were older. For example, common status offenses include underage drinking, and violations of curfew. The recognition that those who commit status offenses are not dangerous, and therefore do not deserve to be detained, is a step in the correct direction.

The Juvenile Justice and Delinquency Prevention Act was reauthorized for three years in 1977. During this reauthorization the Act was amended to include juveniles with learning disabilities. The amendments also allocated at least five percent of the budget to State Advisory Groups (OJJDP, “The Juvenile Justice and Delinquency Prevention Act of 1974: Prior Federal Juvenile Delinquency Activity”).

Again, this was a move towards the reform of the Juvenile Justice system. The State Advisory Groups are appointed in each jurisdiction, and are principally responsible for supervising and supporting their jurisdiction's progress (Coalition for Juvenile Justice). This allows the government to emphasize the importance of Juvenile Justice reform at the state level by allocating a minimum amount of funds for use by State Advisory Groups.

The Juvenile Justice and Delinquency Prevention Act was reauthorized in 1980. This reauthorization was for four years. The new act included a program for missing and exploited children. It also emphasized programs that worked to strengthen families. It also stopped funding for bio-medical and behavior control experimentation, or research (OJJDP, "The Juvenile Justice and Delinquency Prevention Act of 1974: Prior Federal Juvenile Delinquency Activity"). Although these seem like positive efforts to further reform, not all of the amendments point towards efficient and effective reform. In the 1980 amendments the government extended the deadline to comply with the requirement to free status offenders and remove juvenile offenders from the same detention centers as adults until after December 8, 1988 (OJJDP, "The Juvenile Justice and Delinquency Prevention Act of 1974: Prior Federal Juvenile Delinquency Activity"). This points to decrease in progress, as nonviolent, status offenders were still being held in correctional facilities, and could remain there for another eight years. While this stemming of progress is consistent with the movement of conservatism in the 1980s, there was still forward progress with the prohibition of harmful experimentation.

However, the stemming of progress had dissipated with reauthorization of the Act in 1988. The new amendments to the Juvenile Justice and Delinquency Prevention

Act included an annual requirement of a comprehensive program plan. This shows a concerted effort by the Federal government to encourage tangible progress from state governments. The amendments also included raised minimums for grants, mandated plans to overcome the overrepresentation of minorities, and orders for special studies on the conditions of confinement (OJJDP, “The Juvenile Justice and Delinquency Prevention Act of 1974: Prior Federal Juvenile Delinquency Activity”). These reforms acknowledge several systematic flaws plaguing the Juvenile Justice system, and attempt to address these flaws by introducing requirements for programing, and studies.

Finally, the Juvenile Justice and Delinquency Prevention Act was most recently reauthorized in 2002. With this reauthorization, the government broadened the requirement from investigating why there was an overrepresentation of minorities in confinement, to investigating why there is an overrepresentation of minorities in contact with the Juvenile Justice system (OJJDP, *Legislation JJDP Act Authorizing Legislation*). This is an important investigation, as the overrepresentation could mean there is policy in place causing bias. Factors that cause overrepresentation should be examined to determine if prejudice and discrimination exist to create such an imbalance. The 2002 reauthorization was also amended to include requirements for states to give funding priority to programs that have been proven effective. This was an excellent addition, as it guarantees that funding is going to be put towards programs that have been proven to successfully attain their individual objectives. Therefore, these amendments to the Juvenile Justice and Delinquency Prevention Act are improvements that will promote the true objective of the Juvenile Justice system: to rehabilitate delinquent juveniles.

Understanding the ongoing reform, and the history of the Juvenile Justice system is an important part of understanding the current debate over Juvenile Justice policy. It is essential to understand the steps legislators and Supreme Court Justices took to ensure rights for juvenile offenders. Not only is it important to recognize the rights extended to youth, it is also useful to understand the rationale behind giving these rights to delinquents. The reasoning reveals that those in power recognize the necessity of protecting youth; after all, this was an integral part of the founding of the Juvenile Justice system. Overall, the history of the Juvenile Justice system reveals the fundamental purpose of the system: to protect and rehabilitate juveniles to put them on a law-abiding path in the future.

### **Chapter 3:**

#### **CURRENT JUVENILE JUSTICE LEGISLATION:**

The Juvenile Justice and Delinquency Prevention Act (JJDPa) still endures as the federal doctrine that governs the Juvenile Justice system. The JJDPa has been reauthorized and amended many times, but most recently, it was reauthorized and amended in 2002. This set another reauthorization for 2007, but Congress did not take any action (American Civil Liberties Union). This makes legislation on Juvenile Justice funding eleven years overdue.

The JJDPa is federal legislation that is based on the premise that there should be a national standard of care for the Juvenile Justice systems across the United States. There are currently more than 56 juvenile justice systems in the United States, including the various systems across all fifty states, and the JJDPa allows for standardization of treatment across all of these systems (Act 4 Juvenile Justice, *What Is the JJDPa ? The Juvenile Justice System Juvenile Justice and Delinquency Prevention Act E-Mail Signup*). The case of *In Re Gault* shows the necessity of standardization, because if there is not a baseline of care there is possible that juveniles could be exploited. The purpose of the JJDPa is to prevent juvenile delinquency nationwide and to provide improvements to the various systems. The legislation creates partnerships between the federal and state systems. These partnerships are essential as they provide funding to state governments to ensure they are able to comply with high levels of care established by the legislation.



Currently, there are two pieces of legislation that are being put forward in Congress concerning the Juvenile Justice system. The two pieces of legislation are nearly identical and they are both versions of reauthorization of the Juvenile Justice and Delinquency Prevention Act. H.R. 1809 is the Juvenile Justice Reform Act of 2017 (Congress.gov, *H . R . 1809 - Juvenile Justice Reform Act of 2017*). S.860 is the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2017 (Congress.gov, *S . 860 - Juvenile Justice and Delinquency Prevention Reauthorization Act of 2017*). As the names suggest, there are slight differences between the two bills.

The H.R. 1809 bill was introduced to the U.S. House of Representatives on March 30<sup>th</sup>, 2017. It was introduced through the Committee on Education and Workforce, and was sponsored by Republican Representative Jason Lewis (Congress.gov, *H . R . 1809 - Juvenile Justice Reform Act of 2017*). Currently, the bill has 23 co-sponsors, 14 Democrats and 9 Republicans. It reauthorized the JJDPa through the Fiscal year of 2022. The most recent action on the bill was on February 6<sup>th</sup>, 2018 when it was read twice in the Senate and then placed on the calendar (Congress.gov, *H . R . 1809 - Juvenile Justice Reform Act of 2017*). This action is more recent than its Senate counterpart, and it has more co-sponsors, so this piece of legislation seems to make it the more promising of the options.

The Senate Bill S. 860 was introduced on April 5<sup>th</sup>, 2017, and is sponsored by Republican Senator Chuck Grassley. The Bill passed through the Judiciary Senate Committee and has 13 co-sponsors. Of the co-sponsors, 7 are Democrats, and 6 are Republican. This differs from the House bill because it would only reauthorize the amended JJDPa through fiscal year 2021. The last action was in August of 2017, when the Senate passed with bill with a voiced amendment (Congress.gov, *S . 860 -*

*Juvenile Justice and Delinquency Prevention Reauthorization Act of 2017*). This bill is a product of a difference of opinion on the core requirements of the JJDPa and is less progressive than its counterpart in the House of Representatives.

But first, there are many important similarities between these pieces of legislation. First, they broaden the membership of the Coordinating Council on Juvenile Justice. Under the new legislation, whichever bill would be passed, the Administrator of the Substance Abuse and Mental Health Services administration would be included on the council. This is significant as it is bringing leadership onto the council that has direct experience and knowledge with dealing with key issues of the juvenile demographic, such as drug use. For instance, in 2013, there were 140,000 drug cases involving juveniles in the United States (Hockenberry and Puzzanchera). Additionally, approximately 70% of the youth in the juvenile justice system suffer with mental illness (National Alliance on Mental Illness). Thus the introduction of the Administrator of the Substance Abuse and Mental Health Services administration is an important addition that can effectively advise the council on how best to alleviate two system-wide issues of the Juvenile Justice system.

A second similarity between the Senate and House bills is the broadening of grants available. These grants are the Incentive Grants under the Local Delinquency Prevention Program. Specifically, these grants are to prevent at-risk youth from committing crimes and becoming involved in the Juvenile Justice system. It accomplishes this goal by creating and implementing various prevention programs, such as programs that improve family functioning (Holder and Robinson). These types of programs are important reforms as they move away from incarceration as a solution and towards dealing with root problems.

Another important similarity between the two proposed bills is the accountability provisions. While, both pieces of proposed legislation have language within them that subjects the grants for juvenile justice purposes to accountability provisions. Specifically, the Senate bill requires the Government Accountability Office to evaluate the performance of the Office of Juvenile Justice and Delinquency Prevention, as well as audit the grant recipients of that office (Congress.gov, *S . 860 - Juvenile Justice and Delinquency Prevention Reauthorization Act of 2017*). This is a crucial change as states spend an estimated \$5.7 billion per year incarcerating youth offenders (Justice Policy Institute and Institute). In 2016, the United States federal government, the provider of these grants, operated with a total deficit of \$552 billion (Inside Gov). While the federal deficit might make the almost six billion dollars spent on Juvenile Justice seem inconsequential, it demonstrates that ensuring federal money is being spent as effectively as possible must be a high priority for governing bodies. The changes these pieces of legislation are implementing ensures that these programs are working effectively and that the funds going towards them are being used to further the mission of the Juvenile Justice system to rehabilitate offenders.

Additionally, another imperative change furthered by the H.R. 1809 and S. 860 is the promotion of alternatives to incarceration. Decreased incarceration, especially for the majority of youth who are not involved in violent crime, can lead to lower recidivism rates. By avoiding incarceration, the risk for creating schools of crime is diminished. Also, using alternatives to incarceration, such as residential placements, and community-based sanctions, help to reduce the effects of stigmatization of youth (OJJDP, *Alternatives to Detention and Confinement*). Moving towards a decrease in

the incarceration of offending juveniles, the government also moves towards more effective rehabilitation, and, therefore, a decrease in future crime.

The bills also offer further guidelines for the confinement of those youth who would still be subject to incarceration. Both pieces of legislation support prohibiting dangerous confinement practices. This includes the introduction of reporting on the use of isolation on juveniles, as well as prohibitions against using restraints of pregnant inmates (Act 4 Juvenile Justice, *JJDPA in the 115th Congress E-Mail Signup*). These pieces of legislation are recommitting the system to the idea that children should be considered separately from adult offenders due to their inherent psychological differences and opportunity to become a law-abiding adult. The legislation brings the system into a more moderate setting by balancing the use of incarceration, and limiting the practices used on adult offenders that can be translated to the juvenile system.

Furthermore, the legislation is moving towards a more balanced system by supporting the implementation of trauma-informed, evidence-based practices within the system itself. Both pieces of legislation have provisions demanding the use of programs that are supported by evidence, and are trauma-informed as the basis for funding (American Civil Liberties Union). This is extremely important as children can be systematically traumatized by the justice system. The system also is supporting the effectuation of evidence-based practices. This is crucial because it ensures that the system is working as effectively as possible to rehabilitate the youth it takes in. By implementing systems that are not only trauma-informed, but also evidence-based the system is actively working towards its goal of rehabilitating offenders in order to create a more safe, law-abiding society.

The legislation is also working to fulfill the mission of the Juvenile Justice system by providing improved educational services (Act 4 Juvenile Justice, *JJDPA in the 115th Congress E-Mail Signup*). Unlike adults, juvenile offenders have the unique challenge of being incarcerated during their educational years. During time spent in justice facilities juveniles miss crucial instructional time, and it can be hard to recover. As a country, the United States acknowledges the importance of education, which can be seen through the public education system and mandatory attendance laws. The proposed bills emphasize that education should continue no matter the circumstance by providing for improved educational services to the youth involved in the system.

While it is important to acknowledge the crucial improvements both pieces of legislation offer, these pieces of legislation are being brought into Congress separately. Therefore, it is also important to understand the differences between the Senate bill and the House bill.

The two bills have different reauthorization deadlines. There is a one-year difference, to either the fiscal year of 2021 or 2022. Either of these reauthorization dates would be consistent with the average four-year reauthorization of the JJDPA in the past. While this is within the general trend of the legislation, it does not seem like enough. The Legislative Branch has many bills to sift through, and this takes time. This is indicated by reauthorization of the JJDPA being delayed for more than a decade. Additionally, the history of reauthorization for an average of four years has been in order to further research viable reforms. There has been 16 years of research into more effective reforms since the last reauthorization in 2002, and therefore should be a more lengthy reauthorization to allow these reforms to produce viable data.

The most significant differences can be found in the reasoning in the creation of two separate bills. In 2016 the House had approved H.R. 1809, and it was passed to the Senate. Senator Tom Cotton blocked the passage of the bill by the Senate due to his opposition to language concerning the Valid Court Order exception (Stop Solitary for Kids). The Valid Court Order exception, commonly referred to as the VCO exception, allows juveniles to be incarcerated for committing status offenses while released through a valid court order. This exception goes against one of the core requirements of the JJDPa, the deinstitutionalization of status offenders (Act 4 Juvenile Justice, *Core Requirements*). The H.R. 1809 bill would eliminate the use of the VCO exception, which Senator Cotton opposed. Consequently, there was the introduction of S. 860, an alternative bill without the eradication of the VCO exception.

The Juvenile Justice Reform Act of 2017 (H.R. 1809) strengthens all of the core requirements of the JJDPa. These principles are: Deinstitutionalization of Status Offenders (DSO), Adult Jail and Lock Up Removal, Sight and Sound Separation, and Disproportionate Minority Contact (Act 4 Juvenile Justice, *Core Requirements*). First, as previously discussed, the DSO requirement deals with juveniles who are adjudicated delinquent for something that would not be criminal if they were over the age of eighteen. The strengthening of the requirement shows the renewed, and continued dedication to a Juvenile Justice system that is rehabilitative, rather than punitive, in nature.

The strengthening of the core requirement of removing juveniles from adult jails and lock ups is another necessary component of the reauthorization of the JJDPa. Juveniles housed with adult prisoners, even for short periods before and after court

hearings, are at a high risk for victimization. Juveniles that are held in adult prisons are eight times more likely to commit suicide, and fifty percent more likely to be attacked with a weapon than if they were housed in juvenile-only facilities (Act 4 Juvenile Justice, *Core Requirements*). Though, there are certain exceptions that still exist so juveniles can be housed with adult offenders. Youth offenders can be held with adult prisoners for up to six hours before or after court hearings, for 24 hours (plus holidays and weekends) in rural areas, and if there are unsafe traveling conditions. Though, when one of these exceptions is met, the Sight and Sound separation principle is activated.

The Sight and Sound principle states that if there is an instance that creates an exception to the removal from adult jails and lock ups, there must be a sight and sound separation between the juveniles and the adult inmates. This means that juveniles cannot be held in cells next to adult offenders, and that the two groups can't occupy the same common spaces, such as the recreation area or the dining halls, at the same time (Act 4 Juvenile Justice, *Core Requirements*). This separation is implemented in order to protect juveniles from physical, and mental abuse by adult inmates.

The elimination of the Valid Court Order (VCO) exception is an important improvement of the Juvenile Justice Reform Act of 2017. A court can order a juvenile on probation not to commit status offenses, such as running away from home, as a condition of release. Without this exception, if a juvenile does commit a status offense, the court can detain these juveniles for violating a valid court order (Act 4 Juvenile Justice, *Letter Supporting H.R.1809*). Essentially, this is a loophole that allows the Juvenile Justice system to jail youth that have not committed crimes severe enough to warrant that treatment. This is not only a costly loophole, as taxpayers

continue to fund the incarceration and detainment of offenders, but it is also harmful to the youth. Incarceration has proven to be one of the least effective methods to rehabilitating juveniles, and therefore this loophole should be eliminated. The Juvenile Justice Reform Act of 2017 mandates that this exception be eradicated by the year 2020 (Act 4 Juvenile Justice, *Letter Supporting H.R.1809*). Though, whether this area of the JJDNA will continue to be strengthened depends on which version of the bill will be passed into law, as the Senate bill does not provide any language to eliminate this exception.

Another improvement created by the Juvenile Justice Reform Act of 2017 is the strengthening of the Sight and Sound separation requirement. This is an excellent development because research has proven that juveniles who are housed with adult inmates face higher risk of physical assault, as well as becoming more likely to re-offend (Act 4 Juvenile Justice, *Letter Supporting H.R.1809*).

Thirdly, the Juvenile Justice Reform Act of 2017 calls for creation and implementation of plans to deal with the over-representation of minorities in the Juvenile Justice system. There is disproportionate minority contact at all points of the juvenile justice system, and two thirds of juvenile offenders are youth of color (Act 4 Juvenile Justice, *Letter Supporting H.R.1809*). Due to the long and ongoing history of disproportionate minority contact, the requirement of implementing data-driven programs to ensure fairness when addressing youth of color is an important enhancement by the Juvenile Justice Reform Act. The states will also have to publically report their efforts (Act 4 Juvenile Justice, *Letter Supporting H.R.1809*). While this effort does not directly deal with the reform of the offenders, as the others do, this is an important addition to the Juvenile Justice Reform Act to ensure that the



system is working with all juveniles equally. If the system treats various racial groups differently, it not only offends the Constitution of the United States but it also could have psychological effects on the juveniles.

All in all, both pieces of legislation provide for essential improvements to the Juvenile Justice system. While it remains to be seen which piece of legislation, if either, will be put forward to the Executive Branch to be signed into law, both bills incorporate changes that promote the true rehabilitative purpose of the Juvenile Justice system.

## **Chapter 4:**

### **NEXT STEPS**

While the improvements proposed by the Juvenile Justice Reform Act of 2017 and the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2017 are important, and reflective of the direction the juvenile justice system should take, the reforms are by no means complete. As in any industry, it is important to change and evolve as new research becomes available. In this case, the future legislation of the Juvenile Justice system should move towards preventing the base causes of juvenile crime, and creating adjudication options that use the most effective, and efficient research-based practices.

#### **4.1 Current Practical Issues with Researching Juvenile Justice:**

While reforming the Juvenile Justice system is important, it is also important to ensure that research can be conducted effectively in order to determine best practices. Currently, there are several gaps of information that need to be filled.

First, there is no national recidivism rate for juveniles. This means that currently, there is no published number about the rate that juveniles are reentering the juvenile justice system across the 56 Juvenile Justice systems in the United States (National Criminal Justice Reference Service). This is important because there is no number to compare to other developed nations' Juvenile Justice systems, and therefore no way to understand if the system in the United States is the most effective system

internationally. It also means that researchers cannot utilize a national recidivism number to understand if national trends of reform in juvenile justice are effective.

Another important change that should occur is that all states should be required to publically report their juvenile justice statistics. This includes their statistics on how many juveniles they are detaining, the cost of detainment per juvenile per day, the percent of minority contact, and the recidivism rates. There are more than 56 juvenile justice systems operating under the jurisdiction of the United States of America (Act 4 Juvenile Justice, *What Is the JJDPA ?*). Fifty of these systems are operated by the fifty different states. Presently, 11 states do not report numbers on their juvenile recidivism rates (The Pew Charitable Trusts). This means that researchers are only able to compare the effectiveness of 78% of the state-run Juvenile Justice systems.

Encouraging more Juvenile Justice systems to create reports on their tactics will allow for better research to be conducted. Not only will this allow for better comparisons of different state structures, but also it can allow legislators and other administrators within the system to find the most effective programs. More information available is going to produce better, more informed research and programs.

#### **4.2 Preventative Improvements:**

Preventative improvements should one of the next sets of reforms added to the Juvenile Justice Delinquency Prevention Act. Preventative improvements include efforts designed to address high-risk youth and the base problems that lead to juvenile delinquency.

To start, the legislative bodies should push reforms and training to be implemented in the public school system. This is an easy choice because not only does

the United States value education as a pathway to a successful future, it is required for juveniles under the age of sixteen. By training teachers, counselors, resource officers (police officers who are assigned to public schools), and principals on best practices for dealing with at-risk youth, the government is ensuring there are adults that the children should have contact with that are knowledgeable about reducing recidivism. Specifically, educators should be trained in Labeling Theory and the School-to-Prison Pipeline.

First, Labeling Theory is an important sociological theory that can be used to describe how harmful labeling juveniles as offenders can be. This theory has its roots in the work of Emile Durkheim. Durkheim, who published *The Normal and the Pathological* in 1895, focused on identifying the causes of delinquent or norm-violating behavior (Berk). In the 1960s this viewpoint evolved and became what is known as Labeling Theory. In 1969 Criminologist and Labeling Theorist Herbert Blumer acknowledged that meaning is given through communication. In terms of society, meaning is given by those in power who define what crime is by defining what behavior is inappropriate (Skaggs). When applied to the Juvenile Justice system, Labeling Theory suggests that by society placing labels on juveniles as delinquent or offenders, that those juveniles tend to accept and internalizes those labels.

There is important data to substantiate the claims of Labeling Theory. For example, a study conduct with incarcerated youth in 2010 found that of those youth who self-identified as gang members 63% of them had consumed alcohol heavily in the 30 days leading up to their incarceration. This is opposed to their counterparts who did not identify as a gang-member, of which only 30% reported heavy alcohol consumption in the month previous to incarceration (Ascani). This could lead to the

conclusion that those who were labeled negatively were more likely to engage in criminal activity. According to the 2012 review of Labeling Theory conducted by Nathaniel Ascani, formal criminal labeling creates many issues, especially in the Juvenile Justice system. He states that labeling discourages participation from conventional activities and encourages isolation: the exact opposite of what the Juvenile Justice system should be attempting to accomplish. While there have been important reforms utilizing Labeling Theory, such as adjudicating juveniles as delinquents instead of felons, the reform could go further. Instead of simply using this theory with youth who come into contact with the Juvenile Justice system, it can be extended as a preventative measure by training those who come into frequent contact with at-risk youth.

One specific group to be trained in utilizing Labeling Theory should be educators. Training educators, and those who have frequent contact with at-risk juveniles, in how to utilize Labeling Theory can diminish the effect and therefore lessen the amount of juveniles creating negative self-images. For example, by teaching resource officers, and teachers the dangers of labeling a child a problem, or as a delinquent, there is less of a chance of the child developing a hopeless, negative attitude about him or herself. Decreasing the use of dangerous labeling language decreases the likelihood of a child feeling pushed to criminal acts because they are already irredeemable. All in all, by alerting authority figures to the massive impact their labels can have on the self-image development of a child, there is an opportunity to steer children away from a criminal path by lifting their self-image instead of labeling them as delinquent and encouraging delinquent behavior.

A second observation of those who study juvenile crime that could be utilized as a preventative measure is the School-to-Prison Pipeline. This observation came about when, in the 1980s, the United States started to take on the issues such as drugs and crime in a punitive way. This was the era of “get tough on crime”, and the War on Drugs. High ranking government officials in the United States became outraged at the amount of juvenile gang shootings, and invented the concept of a “super-predator”, which in turn became an ideology that drove this period in history (Heitzeg). The “super-predator” theory, now debunked, was the notion that youth of color were criminals, and lead to increased punitive measure being taken against the group (Advancement Project). As result of this, educational and social trends became more punitive and more associated with youth of color (Heitzeg). One of these punitive policies is the zero-tolerance policy implemented in public schools. The term Zero Tolerance policy refers to the heavily relied upon system of mandatory punishments for the violation of school rules (Heitzeg). These systems have allowed and encouraged an increase in police and security presence at schools. As a result, this has lead to more suspensions, expulsions, and arrests made during school hours (Heitzeg). All together, this trend has become known as the School-to-Prison Pipeline. According to Heitzeg, the term School-to-Prison Pipeline refers to “this growing pattern of tracking students out of educational institutions, primarily via zero tolerance policies, and, directly and/or indirectly, into the juvenile and adult criminal justice systems”. Fundamentally, the School-to-Prison Pipeline is the result of an increase in strict punitive measures being taken from the legal system and implemented into the public school system.

By reforming and correcting the zero tolerance policies, and criminal justice style methods that have been implemented in schools and have lead to students being syphoned into the criminal justice system, the government can further prevent juveniles becoming involved in the juvenile justice system. This is especially important because the School-to-Prison Pipeline is mostly made up of students of color and students with disabilities. African American children are 3.5 times more likely than white students to be expelled, and students with disabilities make up 8.6% of public school children, but constitute 32% of juveniles in detention centers (Elias).

Currently, the zero tolerance policies are based off of a deterrence mentality. Deterrence policies are those that punish offenders harshly because they believe that the offending is the result of a rational choice. Thus, the foundation of deterrence policies are that if you punish those offenders, they will not continue to offend as the risks will outweigh the rewards (Shoemaker). Though, it has been shown through research that deterrence based policies are not effective with reducing juvenile crime rates. In fact, most punitive deterrence polices are not effective at reducing or discourage serious, and violent juvenile crime (Howell). Thus, it is clear that the School-to-Prison pipeline is a phenomenon that needs to be addressed.

Similar to the use of Labeling Theory in future governmental efforts to reduce juvenile crime and recidivism, resources, training, and implementation of a new system can correct the School-to-Prison pipeline. The first step necessary to stop the School-to-Prison pipeline is to inform school officials and administrators about its existence and about the harms it produces. The government, through offices like the Office of Juvenile Justice Delinquency and Prevention, could provide resources, and model programs for dealing with the pipeline. The Department of Education could

also implement new training for counselors, and new standards of care for students. A reform included within the next reauthorization of the JJDPa could also involve leadership from the Department of Education on the Council in order to encourage cooperation and communication between the school system and the justice system. Also, there are many conceivable actions that could be taken in order to eliminate the negative effects of zero tolerance policies and the resulting School-to-Prison pipeline. These actions could include offering evidence-based policies for dealing with delinquent students in the public school system, offering training programs on utilizing Labeling Theory, and offering programs to deal with the base issues that can cause juveniles to act delinquently. These are simple, and mostly inexpensive, options to alleviate a dangerous practice that has taken over the public school system. If the goal of the juvenile justice system is to remain the rehabilitation of youth, then there are outside factors, such as the School-to-Prison pipeline and Labeling Theory, which need to be considered as they contribute to the system.

Beyond Labeling Theory and School-to-Prison pipeline, research has found many other environmental factors have a profound effect on if a juvenile will commit a crime. Several factors that seem to indicate a future of recidivism include the age of first offense, antisocial peer association, substance use, and history of running away (Wolff et al.). These factors make logical sense. For example, age of first offense would explain how much contact a child has with the juvenile justice system as well as how developed their concept of self was at the time of first labeling. By utilizing research that identifies environmental factors that lead to delinquent behavior, it could be possible to reduce juvenile crime by addressing these factors.



Another significant environmental factor that can predict if a juvenile is at risk of delinquency is the mental health of the child. Seventy percent of youth in the juvenile justice system have been diagnosed with mental illness (National Alliance on Mental Illness). While this absolutely does not mean that all juveniles who suffer with mental health are prone to criminal acts, it is a fact that many youth in the juvenile justice system have mental illnesses. If the education system, and other organizations that deal heavily with at-risk youth, can address mental health issues as well as teach coping mechanisms, those that have mental illnesses may not resort to crime to meet their needs.

Mental health, familial relationships, antisocial peer association, and many of the identified environmental factors that affect juvenile delinquency can be addressed. In the future, the governmental bodies dealing with the reform of the Juvenile Justice system should look to these factors and implement preventative measures. Whether this is devoting more class time and curriculum to teach about how to develop healthy relationships, and deal with toxic ones, or creating training and resources for educators on mental health, there are a multitude of avenues available for governmental reform. These types of reform, although conducted outside of the Juvenile Justice system, directly relate and bolster the mission of rehabilitating and helping at-risk youth.

#### **4.3 Reforms of Current Legislation:**

There are also simplistic reforms that could be included in current legislation in order to better it. These reforms have to do with funding and how programs are rated.

First, the legislation should be used to push states to use methods and practices that are proven to be effective. Although there is language in the legislation proposed

by the Senate that provides funding for programs that are evidence based, the legislation could go further. The National Institute of Justice provides a database of programs that they have evaluated, and a detailed record of the program's effectiveness. With this tool, lawmakers could easily change funding to stipulate that the money will be used to implement one of these examples of effective Juvenile Justice rehabilitation programs. It is important to note, these programs include detainment programs as well as nonresidential programs, therefore they could be used for a variety of offenses and situations. Also, the resource provides multiple studies and reasoning behind the effectiveness of these programs. Therefore, it would be beneficial for legislators to create funding sources that exclusively fund the implementation of the most effective programs.

Conversely, it is important for the governing bodies that oversee grant funding to ensure that money and resources are not being provided to programs that have not shown effective results. The Juvenile Justice system is an institution that is funded by taxpayers, and is one of the most important functions of the state. It is also an institution that requires billions of dollars a year. With the current state of indebtedness the United States government is in, it is imperative to ensure that all programs are working as effectively towards their mission as possible, while also ensuring no additional money is put into programs that are proven to be ineffective.

Finally, there should be an office added within the Office of Juvenile Justice and Delinquency Prevention that would independently research and report numbers of the different justice systems in the United States. As of now, the different Juvenile Justice systems are required to self-report data. It is in the best interest to fund research that is sound, and conducted with integrity. If not, there is a chance that the

statistics and results could be misleading. Therefore, it seems important in the future to fund independent research and studies in order to create unbiased statistics.

All in all, the federal legislation directing the Juvenile Justice system in the United States of America seems to be heading in the correct direction. Previous trends in American history have sent the goal of the Juvenile Justice system in many directions. It has been punitive, to rehabilitative, and then punitive again. In the modern era, the Juvenile Justice system is a system designated to help rehabilitate children faced with adversity. The legislation put forth in the United States House of Representatives as well as the United States Senate both endorse the path of rehabilitation and push for reforms to aid in this mission. Though, as in any endeavor, reform must be made in steps. Nevertheless, it is important to push for this progress. It has been over a decade since the last federal reauthorization of the Juvenile Justice and Delinquency Prevention Act, and while the overall trend of rehabilitation has decreased, it is important to standardize approaches and provide federal funding by reauthorizing federal Juvenile Justice legislation. Legislators must understand that this institution, and these reforms are an important priority.

## REFERENCES

- ABA Division of Public Education. "The History of JUVENILE JUSTICE." *English*, 2007, pp. 4–8, doi:10.1353/foc.0.0011.
- Act 4 Juvenile Justice. *Core Requirements*. 2018, pp. 3–4, <http://www.act4jj.org/our-work/member-engagement>.
- . *JJDPA in the 115th Congress E-Mail Signup*. 2018, pp. 3–4, <http://www.act4jj.org/act4jj-recommendations/jjdpa-115th-congress>.
- . *Letter Supporting H.R.1809*. no. September 2016, 2017, [http://www.act4jj.org/sites/default/files/resource-files/ACT4JJ House bill letter 2017 4.3.17.pdf](http://www.act4jj.org/sites/default/files/resource-files/ACT4JJ%20House%20bill%20letter%2017%204.3.17.pdf).
- . *What Is the JJDPA ? The Juvenile Justice System Juvenile Justice and Delinquency Prevention Act E-Mail Signup*. 2018, pp. 3–4, <http://www.act4jj.org/what-jjdpa>.
- Advancement Project. *The Origins of the School to Prison Pipeline*. <https://americadividedseries.com/wp-content/uploads/2016/08/Divided-One-Pager-PDF.pdf>.
- American Civil Liberties Union. *Dev. Services Group, Inc., O.* no. 2014, 2017, pp. 1–2, [https://www.aclu.org/sites/default/files/field\\_document/2017-04-21\\_aclu\\_letter\\_of\\_support\\_house\\_support\\_hr\\_1809\\_jjdpa\\_reauthorization.pdf](https://www.aclu.org/sites/default/files/field_document/2017-04-21_aclu_letter_of_support_house_support_hr_1809_jjdpa_reauthorization.pdf).
- Ascani, Nathaniel. "Labeling Theory and the Effects of Sanctioning on Delinquent Peers Association: A New Approach to Sentencing Juveniles." *Sociological Perspectives: University of New Hampshire*, no. Braithwaite 1989, 2012, pp. 80–85, <http://cola.unh.edu/sites/cola.unh.edu/files/student-journals/Perspectives2012.pdf#page=81>.
- Berk, Bernard B. "Labeling Theory, History of." *International Encyclopedia of the Social & Behavioral Sciences*, Second Edi, no. October, Elsevier, 2015, doi:10.1016/B978-0-08-097086-8.03161-5.
- Coalition for Juvenile Justice. *State Advisory Group Members*. 2018, pp. 2–3, <http://www.juvjustice.org/about-us/state-advisory-group-members>.

- Congress.gov. *H . R . 1809 - Juvenile Justice Reform Act of 2017*. 2018, pp. 2017–18, <https://www.congress.gov/bill/115th-congress/house-bill/1809?q=%7B%22search%22%3A%5B%22Juvenile+Justice+and+Delinquency+Prevention+Reauthorization+Act+of+2017%22%5D%7D&r=2>.
- . *S . 860 - Juvenile Justice and Delinquency Prevention Reauthorization Act of*. 2018, p. 2018, <https://www.congress.gov/bill/115th-congress/senate-bill/860/actions>.
- . *S . 860 - Juvenile Justice and Delinquency Prevention Reauthorization Act of*. 2018, p. 2018, <https://www.congress.gov/bill/115th-congress/senate-bill/860?q=%7B%22search%22%3A%5B%22juvenile+justice+reform+act+of+2017%22%5D%7D&r=5>.
- Elias, Marilyn. *The School-to-Prison Pipeline*. 2013, pp. 1–4, <https://www.tolerance.org/magazine/spring-2013/the-schooltoprison-pipeline>.
- Heitzeg, Nancy. “Education or Incarceration: Zero Tolerance Policies and the School to Prison Pipeline.” *Forum on Public Policy Online*, 2009, pp. 1–21, <http://www.eric.ed.gov/ERICWebPortal/recordDetail?accno=EJ870076>.
- Hockenberry, Sarah, and Charles Puzzanchera. “Juvenile Court Statistics 2013.” *National Center for Juvenile Justice*, 2015, pp. 2–4, doi:10.1016/B978-0-12-396963-7.00015-5.
- Holder, Eric H., and Laurie O. Robinson. *Title V Incentive Grants for Local Delinquency Prevention Programs*. 2008, pp. 1–16.
- Howell. *WHAT DOESN'T WORK IN PREVENTING AND REDUCING JUVENILE DELINQUENCY*. 2001, pp. 130–47, [https://www.sagepub.com/sites/default/files/upm-binaries/3323\\_Howell\\_Capter7FINAL.pdf](https://www.sagepub.com/sites/default/files/upm-binaries/3323_Howell_Capter7FINAL.pdf).
- Inside Gov. *US Federal Budget*. 2018, pp. 1–6, <http://federal-budget.insidegov.com/>.
- Justice, Criminal, and Juvenile Facilities. *Study : Long-Term Juvenile Incarceration Fails to Decrease Reo Ending Rates*. 2018, pp. 1–2.
- Justice, Criminal, and John Griscom. *Juvenile Justice History*. 2017, pp. 1–3.
- Justice Policy Institute, and Justice Policy Institute. *The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense*. 2009, p. 25.

- National Alliance on Mental Illness. *Juvenile Justice*. Vol. 2008, no. April, 2009, pp. 2–3.
- National Criminal Justice Reference Service. *What Is the National Juvenile Recidivism Rate?* 2018, p. 2018,  
<https://www.ncjrs.gov/App/QA/Detail.aspx?Id=113&context=9>.
- National Juvenile Defender Center. *United States Supreme Court Juvenile Justice Jurisprudence*. Vol. 551, no. 2005, 2017, pp. 8–9.
- OJJDP. *Alternatives to Detention and Confinement*. no. 2013, 2013, pp. 1–7.
- . *Legislation JJDP Act Authorizing Legislation*. no. Title V, 2018, pp. 2–3,  
<https://www.ojjdp.gov/about/legislation.html>.
- . “The Juvenile Justice and Delinquency Prevention Act of 1974: Prior Federal Juvenile Delinquency Activity.” *JJDP Chronology*, 1974,  
<https://www.ojjdp.gov/compliance/jjdpchronology.pdf>.
- Peters, Gerhard, and John T. Woolley. “John F. Kennedy: Remarks Upon Signing the Juvenile Delinquency and Youth Offenses Control Act.” *The American Presidency Project*, 1961, pp. 1–2,  
<http://www.presidency.ucsb.edu/ws/?pid=8347>.
- Puzzanchera, Charles, and Sarah Hockenberry. *The Number of Juveniles in Residential Placement Reached a New Low in 2015*. 2017, p. 2015,  
[https://www.ojjdp.gov/ojstatbb/snapshots/DataSnapshot\\_CJRP2015.pdf](https://www.ojjdp.gov/ojstatbb/snapshots/DataSnapshot_CJRP2015.pdf).
- Shoemaker, Donald J. “Theories of Delinquency.” *An Examination of Explanations of Delinquent Behavior*, 2010.
- Skaggs, Sherry Lynn. *Labeling Theory*. 2018,  
<https://www.britannica.com/topic/labeling-theory>.
- Stop Solitary for Kids. *JJDPA Legislation 2017*. 2018, pp. 1–4,  
<http://www.stopsolitaryforkids.org/jjdpa-legislation-2017/>.
- The Oyez Project. *In Re Gault*. Vol. 28, no. 1967, 1966, pp. 1–2,  
[http://www.oyez.org/cases/1960-1969/1966/1966\\_116](http://www.oyez.org/cases/1960-1969/1966/1966_116).
- . *J.D.B. v. North Carolina*. 2018, pp. 1–3, <https://www.oyez.org/cases/2010/09-11121>.
- . *McKeiver v. Pennsylvania*. 1971, pp. 2–4, <https://www.oyez.org/cases/1970/322>.

The Pew Charitable Trusts. *Measuring Juvenile Recidivism- 50 State Data Table*. no. May, 2014, p. 2.

Wolff, K. T., et al. "The Relationship Between Adverse Childhood Experiences and Recidivism in a Sample of Juvenile Offenders in Community-Based Treatment." *International Journal of Offender Therapy and Comparative Criminology*, 2015, doi:10.1177/0306624X15613992.