



# RECOMMENDATIONS TO THE 117TH CONGRESS



Prepared by the Coalition for Juvenile Justice.  
Representing Juvenile Justice State Advisory Groups and their allies.



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# Letter from the CJJ Executive Board

January 2021

Dear Members of the 117th Congress,

Now that the 117th Congress is underway, we urge you to ensure that our country's youth, families, and communities remain a priority. The Coalition for Juvenile Justice (CJJ) – comprising more than 15,000 youth justice practitioners, law enforcement officials, youth development experts, community service providers, young people, families, and legislators in all U.S. states, territories and the District of Columbia – has prepared these policy recommendations to support prevention, early intervention, family empowerment, and developmentally-appropriate approaches to reclaim and rebuild the lives of youth who come into contact with the juvenile justice system.

The Coalition for Juvenile Justice calls on the 117th Congress to:

- Restore appropriations for juvenile justice programs;
- Ensure appropriate implementation and oversight of the Juvenile Justice and Delinquency Prevention Act;
- Eliminate the Valid Court Order (VCO) exception;
- Address and end racial and ethnic disparities within the justice system;
- Build on proven strategies to increase school engagement and success for all youth and prevent the conflation of school discipline policy and juvenile justice system sanctions, also known as the “school-to-prison pipeline;”
- Reauthorize the Runaway and Homeless Youth Act;
- Ensure that trafficked youth are treated as survivors instead of being criminalized; and
- Pass the REDEEM Act.

As a first priority, CJJ wishes to call your attention to the need for continued appropriations for important juvenile justice programs that keep our kids and communities safe. We were extremely appreciative to see the reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDPDA) in the 115<sup>th</sup> Congress. New updates to the law were greatly needed and will help ensure that our young people and their communities are safe. The JJDPDA is not only the flagship federal law that sets the standards for how youth ought to be treated in our nation's justice systems; it also provides a framework under which youth gun violence, youth development, school climate, and community supports can be addressed effectively. Of note, the law is also one of the only federal provisions requiring states to address and remedy racism and racial disparities within their justice systems. Support and oversight are needed to ensure the Act's core protections are implemented fairly and appropriately, and that juvenile justice funding streams are available to protect youth and keep them positively connected to their schools and communities.

By taking deliberate and decisive action on this agenda, laid out in more detail herein, Congress can exercise true leadership to secure community safety, invest public monies wisely and safeguard the future for youth, families and communities nationwide.

Respectfully submitted on behalf of the Coalition for Juvenile Justice Executive Board, and with our gratitude for your leadership.

Sincerely,

Pastor Edward L. Palmer, Sr.  
National Chair

Naomi Smoot Evans, J.D.  
Executive Director

# 1. Restore Appropriations for Juvenile Justice Programs

Research shows that prevention works. For every \$1 invested in community-based youth development and prevention efforts, we dramatically reduce delinquency and save taxpayers up to \$8 in future costs.<sup>1</sup> In addition, community-based and family-centered treatment for youth has been shown to be far more effective and cost-efficient than incarceration.<sup>2</sup> Finally, research shows that system-involved youth are at risk of emotional and physical injury unless systems invest in options and alternatives that keep youth separate from adult offenders and prevent/limit the use of locked confinement for less serious offenders.<sup>3</sup> Yet, federal appropriations to states, localities, and tribes for key federal juvenile justice programs have been cut dramatically over the past 15 years. This includes:

- **The JJDP A Title II State Formula Grants Program**, which supports state efforts to comply with federal standards for the care of youth in the justice system, has been cut by more than 30%.
- **The JJDP A Title V Local Delinquency Prevention Grants Program**, the only federal program designed to prevent delinquency at the local level in coordination with a statewide prevention plan, has been slashed by more than 70%. Of the Title V funds appropriated over the last nine years, between 53 and 100 percent have been set aside for non-JJDP A programs.
- **The Juvenile Accountability Block Grant Program (JABG)**, which provides local judges, law enforcement officers, corrections officials and providers with a range of options to address the needs and behaviors of court-involved youth, has been significantly reduced, and in recent years has been completely zeroed out.

Federal funds to support state and local juvenile justice standards and improvements must be considered essential investments. Across our country, data shows that youth of color are overrepresented at nearly every point of contact with the juvenile justice system, even when engaging in similar behaviors as their caucasian peers. States are required to address these racial and ethnic disparities as part of the JJDP A, but with dwindling investment in federal juvenile justice programs there are not enough resources to address and end this crisis.

Federal appropriations for juvenile justice also support evidence-based programs that are proven to prevent delinquency, reduce recidivism, and increase public safety – critical investments that are worth the cost. At a minimum, Congressional appropriators should fund juvenile justice programs at the level authorized by Congress:

- **Provide \$80 million for the JJDP A Title II Program** to support a reauthorized JJDP A and ensure state compliance with accepted standards of care and advancement of juvenile justice reforms;
- **Provide \$96 million for the JJDP A Title V Program**, *with no earmarks*, to prevent delinquency at the local level; and

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<sup>1</sup> Small, S.A., Reynolds, A.J., O'Connor, C., & Cooney, S.M. (2005). What Works, Wisconsin: What science tells us about cost-effective programs for juvenile delinquency prevention. Madison, WI: University of Wisconsin–Madison. Available at: [https://www.juvjustice.org/sites/default/files/ckfinder/files/resource\\_618.pdf](https://www.juvjustice.org/sites/default/files/ckfinder/files/resource_618.pdf). Last accessed on April 16, 2019.

<sup>2</sup> McCarthy, Patrick, Vincent Schiraldi and Miriam Shark. (2016) *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model*. New Thinking in Community Corrections bulletin. Washington, D.C.: U.S. Department of Justice, National Institute of Justice. Available at: <https://www.ncjrs.gov/pdffiles1/nij/250142.pdf>. Last accessed April 16, 2019.

<sup>3</sup> Campaign for Youth Justice, *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America*. (2007). Available at: [http://www.campaignforyouthjustice.org/Downloads/NationalReportsArticles/CFYJ-Jailing\\_Juveniles\\_Report\\_2007-11-15.pdf](http://www.campaignforyouthjustice.org/Downloads/NationalReportsArticles/CFYJ-Jailing_Juveniles_Report_2007-11-15.pdf). Last accessed April 16, 2019; Holman and Ziedenburg, (2006) *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Others Secure Facilities*, The Justice Policy Institute. Available at: [http://www.justicepolicy.org/uploads/justicepolicy/documents/dangers\\_of\\_detention.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/dangers_of_detention.pdf). Last accessed April 16, 2019.

- **Provide \$30 million for JABG** to preserve and support a continuum of evidence-informed supervision and graduated sanctions - including cost-efficient confinement alternatives - for youth involved with the courts, as provided for in H. 494.

We recommend providing increased investment in Title V of the JJDPa to ensure Youth PROMISE Committees are able to hold local planning sessions to assess what is needed in the local community and how to address those needs to better support young people of color and their families. We recommend that these funds can be used for mental health services and diversion at the point of, and prior to, arrest including civil citations, family resource centers, healing programs, mobile crisis units, and truth and reconciliation practices. We further recommend increasing funding for Title II of the JJDPa and expanding eligible uses of funds to include prevention and community-based services.

Title II dollars from the JJDPa meanwhile must be accessible for a broad range of programs focused on addressing racism and racial and ethnic disparities within the justice system, including but not limited to, bringing together communities to conduct conversations focused on healing harms of historical injustices that have happened in the local community.

	JJDPa Title II	JJDPa Title V	JABG	Mentoring	Other	Total
FY02	\$88.8	\$94.3	\$249.5	\$16	\$91.5	\$546.9
FY10	\$75	\$65	\$55	\$100	\$37.5	\$423.5
FY11	\$62.3	\$54	\$45.7	\$83	\$31.2	\$276
FY12	\$40	\$20	\$30	\$78	\$94.5	\$262.5
FY13	\$44	\$20	\$25	\$90	\$100.5	\$279.5
FY14	\$55.5	\$15	\$0	\$85.5	\$88	\$244
FY15	\$55.5	\$15	\$0	\$90	\$91	\$251.5
FY16	\$58	\$17.5	\$0	\$90	\$104.7	\$270.16
FY17	\$55	\$14.5	\$0	\$80	\$97.5	\$247
FY18	\$60	\$27.5	\$0	\$94	\$101	\$282.5
FY19	\$60	\$24.5	\$0	\$95	\$107.5	\$287
FY20	\$63	\$42	\$0	\$97	\$118	\$320
FY21	\$67	\$62	\$0	\$100	\$130	\$359

*(Federal Juvenile Justice Funding in Millions)*

## 2. Ensure appropriate implementation and oversight of the Juvenile Justice and Delinquency Prevention Act (JJDPa)

Oversight of the JJDPa presents Congress with an opportunity to affirm high standards for the treatment of youth and the federal-state partnership that undergirds their success. First enacted in 1974, the JJDPa was most recently reauthorized in 2018. Now, 45 years after its initial enactment, the JJDPa is one of the most successful standard-setting statutes at the federal level. At its heart, it recognizes the value of citizen-driven efforts to prevent and stem delinquency. The success of the JJDPa has been supported in significant part by the research, evaluation, oversight, and technical assistance functions of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). It remains a landmark federal statute and provides four substantive safeguards, or “core protections” for youth who come into contact with the juvenile justice system:

- The deinstitutionalization of status offenders core protection provides that non-delinquent youth charged

with offenses such as truancy and running away should not be confined in juvenile facilities or adult jails;

- The jail removal core protection provides that minors should not be placed in adult jails and lock-ups except under very limited circumstances;
- The 'sight and sound' separation core protection provides that youth in adult jails or lock-ups be sight and sound separated from adult inmates; and
- The racial and ethnic disparities core protection mandates that states take steps to measure and address racial and ethnic disparities at key contact points in the juvenile justice system.

With the passage of new legislation, Congress' support is needed to provide oversight and ensure that the core protections are enforced in a fair and meaningful way that is in keeping with the spirit of the law. States need supports to help comply with the JJDPA's updated protections and maintain a sharp focus on preserving these safeguards.

The JJDPA provides an opportunity to invest in strategies to prevent youth gun violence, promote positive school environments, and enable communities to provide much needed support and resources for their youth. Any programs implemented under the JJDPA must adhere to the requirements mandated by statute.

The JJDPA also defines much of the approach to juvenile justice and delinquency prevention taken by Congress and the federal government. It establishes OJJDP and articulates the commitment to a federal-state partnership around juvenile justice.

Not only does the failure to oversee appropriate implementation of the JJDPA threaten the core protections that ensure that youth who come into contact with the juvenile justice system and their families are treated fairly and appropriately, it also disregards their communities' interests in public safety and the fair administration of justice.

The JJDPA also provides an opportunity to strengthen the relationship among the state juvenile justice agencies and state courts through meaningful and ongoing collaboration. Driven by juvenile justice outcome data to address the JJDPA's core protections, the state juvenile justice agencies and state courts partnership requires ongoing planning and improvement efforts to identify and work toward shared goals and activities.

Part of implementation and oversight must focus on carrying out the law and the spirit in which it was drafted. In recent years, funding has been frozen if administrative hurdles such as State Advisory Group (SAG) membership have not been met. We call on Congress and the Administration to ensure that states have the flexibility to meet the core protections and administrative obligations of the Act. We ask that Congress and the Administrator provide flexibility in funding for times when SAG members may change jobs, relocate, or otherwise create vacancies on the committee. Freezing funding because of this hinders the state's progress and does not further protections for youth, which is the Act's intended purpose.

### 3. Address and end racial and ethnic disparities in the youth justice system.

Youth of color are overrepresented at nearly every point of contact with the justice system. The JJDPA provides

communities with an opportunity and federal requirement to address these ongoing disparities. To do so, we recommend providing financial incentives to states to incentivize diversion over arrest. We recommend ensuring clear diversion policies are put in place to limit the use of arrest and system involvement whenever possible, and to ensure that diversion takes place in an equitable manner. Savings from decreased incarceration and decreased over-enforcement measures should be reinvested into impacted communities, with a focus on providing diversion programming that is culturally and linguistically competent, and that is placed in communities where data shows it is needed, and is in line with the community's needs and strengths. Federal funds should be provided to directly resource culturally and linguistically competent mental health supports and early interventions for high needs youth with access to services not contingent upon involvement with the justice system.

Disparities in the justice system start with police contact. To that end, we recommend the creation of national standards for officer qualification, including a demonstrated history of working successfully with young people and training on anti-racist practices and implicit bias. We recommend national standards around reviews of full and complete history of employment, complaints, etc., for law enforcement. We recommend hiring police with training and experience in adolescent development. We recommend working with law enforcement accrediting organizations, prosecutors, public defenders, and Attorney General's offices to create processes and procedures to screen out and hold accountable proven bad actors. We further recommend that regulations be put in place regarding contracts between law enforcement, unions, and their departments, holding that a person shall be ineligible for appointment as a sworn member of the department if they were previously terminated or forced to resign for disciplinary reasons from any commissioned or recruit/probationary position with a law enforcement agency, or previously resigned from a law enforcement agency to avoid potential or proposed or pending adverse disciplinary action or termination.

We recommend providing federal funding to ensure that law enforcement officers who come into contact with young people are trained annually on racial bias, cultural humility, mental health, adolescent brain development, trauma and adverse childhood experiences, as well as how to interact with young people with special needs, and how to interact with families. Training grants must include funding to measure evaluation and implementation so that departments that don't demonstrate a long-term change in behavior will lose future funding for such training. Training should be focused on positive interactions with youth and ways to avoid militarization of these interactions.

All professionals that come into contact with young people have an important role to play in ending racism in our justice system. We recommend providing federal funding to ensure that teachers, doctors, therapists, and others who come into contact with young people receive training on restorative practices, racial bias, cultural humility, culturally and linguistically responsive mental health, culturally and linguistically responsive adolescent brain development, culturally and linguistically responsive trauma, culturally and linguistically responsive ways to interact with young people with special needs, and culturally and linguistically responsive ways to interact with families. We further recommend that they receive training on adverse childhood experiences and culturally and linguistically competent restorative practices. We recommend that educators be required to receive these courses as part of their certification process. We further recommend providing additional funding and training for attorneys who defend youth, particularly when the youth or parents are declared indigent. We recommend providing prosecutors specialized training on youth and implicit bias and providing judges similar training, as well as

guidance on steps to take or policies to implement to help ensure youth understand their rights and responsibilities. We recommend prioritizing federal funding for racial equity and related training that is led by and done in partnership with young people of color and their families.

## 4. Phase out the valid court order (VCO) exception to the JJDPA

As initially enacted in 1974, the JJDPA prohibited courts from incarcerating young people who engage in status offense behaviors.<sup>4</sup> Status offenses are behaviors that violate the law solely because the person who engaged in them has not yet reached the age of majority. They include behaviors such as running away from home and skipping school.

Subsequent amendments to the legislation, however, created what is now known as the valid court order (VCO) exception.<sup>5</sup> This exception permits courts to place children in locked confinement for status offense behaviors that are in violation of a valid court order. Thus, a teenage girl who is required by a judge to attend school can be incarcerated if she continues to skip class.

Research shows that placing children in locked confinement - especially children who are low-risk, such as youth who are charged with status offenses – can have damaging effects. Institutionalization’s many harms begin with removing youth from their families and communities, which prohibits youth from developing the strong social network and support system necessary to transition successfully from adolescence to adulthood.<sup>6</sup> Further, detention is ill equipped to address the underlying causes of the status offense behavior in which the youth engaged and fails to act as a deterrent to subsequent behavior.<sup>7</sup>

Incarcerating children for status offenses is also expensive. Confining a child in a detention facility costs an average of \$240.99 per day, per youth.<sup>8</sup> This equates to roughly \$88,000 a year for each youth housed in a juvenile detention facility. Youth who engage in status offense behaviors often do so, however, because they need community- and family-based supports.

Research has shown that providing youth with these types of programs, instead of placing them in detention facilities, results in better outcomes for young people. Some therapy programs have been found to have a benefit of more than \$10 for every \$1 spent and have been found to reduce recidivism by as much as 22 percent.<sup>9</sup>

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<sup>4</sup> 34 U.S.C. § 11101.

<sup>5</sup> PL 96-509, 1980 S 2441, 94 Stat. 2755 (December 1980).

<sup>6</sup> Nelson, D. W. (2008). *A Road Map for Juvenile Justice Reform*. Baltimore, MD: Annie E. Casey Foundation. Available at: [https://www.aecf.org/m/resourcedoc/AECF-2008-Roadmap for Juv Justice Reform.pdf](https://www.aecf.org/m/resourcedoc/AECF-2008-Roadmap%20for%20Juv%20Justice%20Reform.pdf). Last accessed April 16, 2019.

<sup>7</sup> *Id.*

<sup>8</sup> Butts, Jeffrey A. & Nelson, Douglas N. (2011). *Resolution, Reinvestment and Realignment: Three Strategies for Changing Juvenile Justice*.

John Jay College of Criminal Justice, City University of New York. Available at:

[https://cdpsdocs.state.co.us/ccj/Committees/JuvenileTF/Handout/RiskAssessment/Resolution\\_Reinvestment\\_Realignment.pdf](https://cdpsdocs.state.co.us/ccj/Committees/JuvenileTF/Handout/RiskAssessment/Resolution_Reinvestment_Realignment.pdf). Last accessed April 16, 2019.

<sup>9</sup> Greenwood, Welsh, Rocqye. (2012.) *Implementing Proven Programs For Juvenile Offenders: Assessing State Progress*, Association for the Advancement of Evidence-Based Practices, Available at: <https://youthjusticenc.org/download/juvenile-justice/prevention-interventions-and-alternatives/Implementing%20Proven%20Programs%20for%20Juvenile%20Offenders.pdf>. Last accessed April 16, 2019; Justice Policy Institute, (2006).

A growing number of states and local communities have already stopped using the VCO because of the problems it presents for children and the expense it presents to taxpayers. The Office of Juvenile Justice and Delinquency Prevention reports, however, that as of FY16, the most recent year for which public data is available, 24 states continue to use the VCO exception to incarcerate children. Of these states, 8 used the exception to incarcerate children in more than 100 cases, and one state reported that more than 1,000 status offense cases resulted in incarceration.<sup>10</sup>

CJJ has long supported the phase out of the VCO exception. CJJ urges the reintroduction and passage of legislation to phase out the VCO. Locking up children is not an evidence-based practice. Instead, it harms children and their communities.

## 5. Build on proven strategies to increase school engagement and success for all youth and prevent the conflation of school discipline policy and juvenile justice system sanctions, also known as the “school-to-prison pipeline”

Over the past 20 years, CJJ’s members have witnessed an unprecedented conflation of school discipline policy and sanctions traditionally reserved for the juvenile justice system. In fact, the connection between school discipline and the juvenile courts has become so close that it is coined, the “school-to-prison pipeline.” The pervasive use of exclusionary discipline and zero-tolerance policies have created this pipeline effect and funnel youth out of the school system and into the juvenile justice system. This pipeline impacts a broad swath of youth across lines of race, ethnicity, gender and sexual orientation, disability, and socioeconomic status, and leads to poor outcomes for schools, communities, and youth, ultimately denying education and emotional support to those who typically need it the most.

While a growing focus has been placed on this issue in recent years, much more work remains to be done. For example, data from the U.S. Department of Education Office of Civil Rights (“OCR”) indicates that exclusionary discipline and zero tolerance policies are disproportionately applied to youth of color,<sup>11</sup> an outcome that is directly at odds with the JJDPa mandate to address racial and ethnic disparities (RED) within the juvenile justice system. CJJ calls on Congress to provide federal leadership to ensure that disciplinary policies do not have a disparate impact on students of color, and that all young people have a chance to learn, grow, and be respected within their schools.

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*Models for Change: Building Momentum for Juvenile Justice Reform*, Available at:

[http://www.justicepolicy.org/uploads/justicepolicy/documents/models\\_for\\_change.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/models_for_change.pdf). Last accessed April 16, 2019.

<sup>10</sup> Note: This is the most recent year for which data is publicly available. Available at: <https://ojjdp.ojp.gov/state-use-valid-court-order-exception>

<sup>11</sup> U.S. Dept. of Education Office of Civil Rights. (2014). Civil Rights Data Collection, Data Snapshot: School Discipline. Available at: <http://www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf>. Last accessed Dec. 3, 2014.

CJJ supports approaches to ending the school to prison pipeline that integrate the following principles:

- ***Demand for evidence-based approaches.*** There is now ample evidence to support the position that policies that exclude youth from schools lead to detrimental outcomes for them, their families, and communities. Any approach to stem the school-to-prison pipeline should take into account the best evidence we have of what works, including reducing referrals to the juvenile justice system, and for those youth referred, reduction in the use of out-of-home placement and an increase in community-based interventions that focus on addressing unmet needs. As such funding incentives should be provided for states that decriminalize “willful defiance” and related statutes, including zero-tolerance policies and practices on school grounds that overcriminalized Black and Brown youth. Provide funding incentives for cities that remove curfew laws. Funding saved from reduction in arrests should be reinvested into proven and promising programs in schools that are most impacted.
- ***Balancing of interests.*** CJJ supports approaches that balance needs for the fair administration of justice, community safety, and the health and wellbeing of youth who come into contact with the juvenile justice system. Our experience and evidence show that these interests are not at odds with one another. For instance, one key component of an improved approach is to eliminate school exclusion for disciplinary infractions – specifically long-term suspension and expulsion practices. In-school interventions and alternative services produce better outcomes and avert future problems. The National Coordinating Committee on School Health and Safety reported that suspension and expulsion lead to or worsen academic problems, delinquency, and substance abuse. They also noted that children who are most likely to be suspended are those who most need the assistance and supervision of professionals.<sup>12</sup> Additionally, suspension or expulsion has been shown to be a primary reason for dropping out of school<sup>13</sup> and high school dropouts are 3.5 times more likely than high school graduates to be incarcerated.<sup>14</sup> If suspension or expulsion takes place, CJJ, along with other organizations such as the American Bar Association, urge that students have access to counsel to represent them during related hearings.<sup>15</sup>
- ***Reliance on partnerships in and around schools, students, and families.*** The strategies that work best are those that rely on a mix of public-private partnership and support, and broad-based involvement from system actors and community stakeholders, including families and youth. In CJJ’s earlier report to the President, the Congress, and the Office of Juvenile Justice and Delinquency Prevention, *Abandoned in the Back Row: New Lessons in Education and Delinquency Prevention*, we pinpointed specific strategies and qualities of supportive school settings serving low income and at-risk populations. Such supportive schools and educational settings involve parents and family members, seek to develop children’s/youths’ strengths and personal assets, and create positive environments for communication and learning.
- ***Specific strategies to resolve racial and ethnic disparities (RED).*** Both the efficacy and integrity of the juvenile justice systems are threatened if school and juvenile justice sanctions are disproportionately applied to specific races and ethnic groups. Strategies must be identified and implemented to address the dramatic

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<sup>12</sup> The Committee on School Health. (2003). *Out of School Suspension and Expulsion*. Pediatrics: 112(5), 1206-1209.

<sup>13</sup> DeRidder, Lawrence M. (1991). *How Suspension and Expulsion Contribute to Dropping Out*, The Education Digest.

<sup>14</sup> Martin, N., & Halperin, S. (2006). *Whatever It Takes: How Twelve Communities are Reconnecting Out-of-School Youth*. Washington, DC: American Youth Policy Forum. Available at: <http://www.doe.in.gov/sites/default/files/cte/whatever-it-takes.pdf>. Last accessed April 16, 2019.

<sup>15</sup> See “School to Prison Pipeline” available at: [https://www.americanbar.org/groups/child\\_law/resources/attorneys/school-to-prison-pipeline/](https://www.americanbar.org/groups/child_law/resources/attorneys/school-to-prison-pipeline/). Last accessed January 7, 2019.

overrepresentation of youth of color both in our justice systems, and who are pushed out of their schools.

This includes:

- prioritizing recruitment of teachers from diverse backgrounds, including those who are graduates of Historically Black Colleges and Universities (HBCUs).
- providing direct and separate funding for counselors, therapists, and others who can support Black, Indigenous and Latino young people in their socio-emotional development. Federal funding for counselors and therapists, etc., should at a minimum equal that which the school receives for law enforcement.
- ensuring regulation and accountability for districts that have law enforcement in schools, to avoid justice by geography by including training and technical support to help address challenges and needs of schools that have been shown to disproportionately refer youth of color to the courts. This would include an assessment, review, and audit of district practices by DOE in collaboration with OJJDP. We further recommend the development of best practices to ensure arrests are not made for school disciplinary infractions and that young people are handcuffed and/or arrested while on school grounds only as a last resort in situations of extreme emergency; schools with law enforcement present should be required to enact MOUs between schools and police to keep school discipline in the school's hands, and remove low level offenses committed on school grounds during school operating hours from juvenile court jurisdiction entirely.
- requiring schools that use federal funding for school-based police to also provide a know your rights or Civics curriculum provided by a third-party community organization; we further recommend revising Miranda warnings to reflect adolescent understanding and development.
- providing financial incentives for schools that use restorative practices, and truth and reconciliation practices instead of arrest and court referrals.

## 6. Ensure that trafficked youth are treated as survivors instead of being criminalized

The full extent of the trafficking epidemic remains unknown. Estimates on the number of youths who have endured human trafficking vary greatly, however, according to the Department of Justice, 83 percent of all suspected sex trafficking incidents that were investigated between 2008 and 2010 involved a U.S. citizen, and 40 percent involved a child.<sup>16</sup> Children who are homeless, are involved with the child welfare system, or who have run away from home are especially vulnerable to commercial sexual exploitation, as are LGBT youth.<sup>17</sup> Prior sexual or physical abuse is another major risk factor. Girls of color are disproportionately impacted as well; they are more likely to experience human trafficking and more likely to be criminalized for that victimization.

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<sup>16</sup> U.S. Department of Justice. (2011). *Characteristics of Suspected Human Trafficking Incidents, 2008-2010*. Available at: <http://bjs.gov/content/pub/pdf/cshti0810.pdf>. Last accessed Sept. 26, 2014.

<sup>17</sup> Center for American Progress. (2014). *Three Key Challenges in Combatting the Sex Trafficking of Minors in the United States*. Available at: <http://www.americanprogress.org/issues/lgbt/report/2014/04/08/87293/3-key-challenges-in-combating-the-sex-trafficking-of-minors-in-the-united-states/>. Last viewed Oct. 28, 2014.

Under the federal Trafficking Victims Protection Act (TVPA), all children who are exploited for commercial sex acts prior to age 18 are viewed as victims of sex trafficking, as federal law acknowledges that children are legally incapable of consenting to sex.<sup>18</sup> Federal law also recognizes that child sex trafficking is a form of child sexual abuse. Youth in many jurisdictions, however, continue to be prosecuted at the state level for acts that resulted from their victimization.

A growing number of states are attempting to remedy this by enacting what are known as safe harbor laws. These laws protect children from prosecution for prostitution offenses and other commercial sex acts (some safe harbor laws extend to prostitution-related offenses that aren't commercial sex acts). States have also used these laws to establish safe houses for victims, which can better serve their needs and provide a more appropriate response than juvenile detention facilities. Safe harbor laws may also divert victims' cases from the juvenile justice system to child protection proceedings where survivors are able to access specialized services.<sup>19</sup> Safe harbor laws should prevent criminalization rather than only mitigating it and connect children and youth to services through a means outside of the juvenile justice system. Furthermore, these laws must actually be implemented.

CJJ urges Congress to enact legislation that encourages states to recognize youth as what they truly are: survivors. CJJ asks that Congress provide incentives for states to stop charging victims with either delinquent offenses, or status offenses for behaviors that are the result of their victimization. CJJ also urges Congress to make funding and training opportunities available for states to help address this issue, and to make related legislation and programming gender inclusive, recognizing that all youths can fall victim to trafficking, not just girls. Such programs must also be culturally competent.

## 7. Reintroduce and Pass the REDEEM Act

Introduced in the 115<sup>th</sup> Congress, the Records Expungement Designed to Enhance Employment (REDEEM) Act (S. 827) is bipartisan legislation that would reform federal juvenile justice laws, and provide financial incentives to states that do the same. The REDEEM Act was introduced by Sen. Rand Paul (R-KY) and Sen. Cory Booker (D-NJ). An identical measure (H.R. 1906) was also introduced by Rep. Elijah Cummings (D-MD).

The REDEEM Act provides for the sealing and expungement of federal juvenile records in cases involving non-violent offenses. The measure would also prohibit solitary confinement of juveniles unless the child poses a serious and immediate risk to themselves or others. The REDEEM Act includes financial incentives to states that have similar laws related to the sealing and expungement of juvenile records, and/or solitary confinement. Financial incentives are also included for states that set the age of original jurisdiction in adult court at no younger than 18.

CJJ asks Congress to reintroduce and pass this legislation, which aims to reduce the solitary confinement of youths. Solitary confinement has been shown to cause a range of psychological harms including hallucinations, anxiety, revenge fantasies, self-mutilation, and reduced brain function among adults who are subjected to the punishment.<sup>20</sup>

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<sup>18</sup> 22 U.S.C. § 7105.

<sup>19</sup> Polaris Project. (2015). *Human Trafficking Issue Brief: Safe Harbor*. Available at: <https://polarisproject.org/sites/default/files/2015%20Safe%20Harbor%20Issue%20Brief.pdf> Last accessed Feb 15th, 2019..

<sup>20</sup> American Civil Liberties Union. (2013). *Alone & Afraid: Children Held in Solitary Confinement and Isolation in Juvenile Detention and Correctional Facilities*, New York, NY.

Psychological harm to young people who are placed in solitary confinement may be even more pronounced since youths' brains and bodies are still developing.<sup>21</sup> Solitary confinement also places youths at a greater risk of physical harm and suicide. Roughly 62 percent of all youth who chose to take their own life while at a juvenile detention facility have a history of solitary confinement.<sup>22</sup>

Solitary confinement is particularly devastating to children who have experienced previous traumas, such as abuse. The Attorney General's Task Force on Children Exposed to Violence found that "[nowhere] is the damaging impact of incarceration on vulnerable children more obvious than when it involves solitary confinement."<sup>23</sup>

CJJ also supports reintroduction and passage of the REDEEM Act because it encourages states to increase the age of original jurisdiction in adult court. A growing body of research has shown that young people's brains are not fully developed during their teenage years.<sup>24</sup> In response to this research, the REDEEM Act should be passed to help encourage states to ensure that children continue to receive the protections afforded by the juvenile justice system until at least their 18<sup>th</sup> birthday.

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<sup>21</sup> *Id.*

<sup>22</sup> U.S. Department of Justice. (2012). *Report of the Attorney General's National Task Force on Children Exposed to Violence*, Washington, DC.

<sup>23</sup> *Id.*

<sup>24</sup> See for example, Daniel Romer. [Adolescent Risk Taking, Impulsivity, and Brain Development: Implications for Prevention](#). Vol. 52. Issue 3. p. 263.



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