

SMART ON CRIME: RECOMMENDATIONS FOR THE NEXT ADMINISTRATION AND CONGRESS

More than twenty organizations and individuals collaborated to create “Smart on Crime: Recommendations for the Next Administration and Congress.” The Constitution Project coordinated the production of the report, which was released in November 2008.

“Smart on Crime” identifies 43 criminal justice priorities in 15 issue areas, makes recommendations for congressional and executive action, and provides in-depth background information on a broad array of subjects. It also includes lists of issue-based resources and experts. The report includes the following chapters:

- Overcriminalization of Conduct, Overfederalization of Criminal Law, and the Exercise of Enforcement Discretion
- Federal Law Enforcement Reform — Improve Investigative Techniques, Including Eyewitness Identification, Incentives to Testify, and Interrogation
- Forensic Science Reform — Federal Oversight and Standards
- Federal Grand Jury Reform
- Federal Sentencing Reform
- Asset Forfeiture Reform
- Innocence Issues
- Prison Reform
- Pardon Power/Executive Clemency— Breathe New Life into the Pardon Power
- Re-entry—Ensure Successful Reintegration After Incarceration
- Public Defense Reforms—Make our Communities Safer by Supporting Quality Public Defense System
- Death Penalty/Habeas Corpus Reform
- Juvenile Justice Reforms
- Fixing *Medellin*: Compliance with International Law and Protecting Consular Access
- Victim Issues and Restorative Justice

The full report is available online at <http://2009transition.org/criminaljustice/>, at www.constitutionproject.org, and on the websites of many members of the coalition.

Please note that organizations and individuals identified as “potential allies” have indicated that they support the general principles expressed in the policy proposals described in that chapter. The allies listed do not necessarily endorse the specific language in every proposal in that chapter, but they do agree that the proposals reflect the general principles that should govern policy in that area. A potential ally signing on to one chapter is only signing on to that chapter and does not necessarily support the principles expressed in other chapters. Furthermore, the decision of a group not to sign on as a potential ally does not necessarily indicate an opposition to the policies proposed.

For policy questions, please contact the individuals or organizations identified in the catalogue as experts. Please direct general questions to Daniel Schuman, Director of Communications and Counsel, the Constitution Project, at 202-580-6922.

CHAPTER THIRTEEN

JUVENILE JUSTICE REFORMS

The juvenile justice system in the United States is in urgent need of reform. Riddled with racial and ethnic disparities, a lack of mental health and drug treatment services, harsh and abusive treatment in detention facilities, and disproportionate sanctions for minor and nonviolent adolescent misbehavior, current juvenile justice practices too often ignore children's age and amenability to rehabilitation, increase crime, endanger young people, damage their future prospects, waste billions of taxpayer dollars, and violate our deepest held principles about equal justice under the law.

Nationwide each year, police make 2.2 million juvenile arrests; 1.7 million cases are referred to juvenile courts; an estimated 400,000 youth cycle through juvenile detention centers; and nearly 100,000 youth are confined in juvenile jails, prisons, boot camps, and other residential facilities.¹ On any given night, almost 10,000 of these children are held in adult jails and prisons, where they are particularly vulnerable to victimization and abuse. The United States is the only nation in the world where juveniles are serving sentences of life without the possibility of parole.

On a brighter note, scientific research over the past 20 years has vastly increased our understanding of what works, and how to best approach juvenile delinquency and system reform. Promising reforms are expanding in many jurisdictions, and we have an increasingly clear route for moving juvenile justice away from counterproductive, dangerous, and wasteful practices toward a more effective and just approach to addressing adolescent crime. This new administration has the opportunity, and the obligation, to establish a meaningful system of justice for all of our youth, and should begin by focusing on the following top two priorities:

- 1. Make Prevention and Intervention Priority for Effective Juvenile Justice Delinquency Crime Reduction Policy**
 - A.** Restore support for and sharpen the focus of the Office of Juvenile Justice and Delinquency Prevention (OJJDP).
 - B.** Strengthen and reauthorize the Juvenile Justice and Delinquency Prevention Act (JJPA or “the Act”).
 - C.** Increase support for prevention, education, gang intervention, mentoring, job training, health, mental health, and substance abuse community and school-based programming for youth.

- 2. Protect Youth in the Juvenile Justice System and Promotion of Developmentally-Appropriate Policies**
 - D.** Promote age-appropriate treatment for youth in the justice system.
 - E.** Screen youth for mental health and substance abuse disorders upon intake.
 - F.** Reduce inappropriate penalties, and reform costly policies that subject more youth—particularly poor youth and youth of color—to federal prosecution and incarceration.

I. MAKE PREVENTION AND INTERVENTION PRIORITY FOR EFFECTIVE JUVENILE JUSTICE DELINQUENCY CRIME REDUCTION POLICY

Support For OJJDP and JJDP A Reauthorization

Summary of the Problem: The Office of Juvenile Justice and Delinquency Prevention is the federal “home” for juvenile justice and delinquency prevention issues, and is tasked with assisting state and local governments in addressing juvenile delinquency.² Over the past eight years, OJJDP has suffered a drastic depletion of funding and support, and the agency’s commitment to the most important issues confronting youth has steadily waned.³ The Juvenile Justice and Delinquency Prevention Act, which establishes OJJDP, is overdue for reauthorization, and its core protections for youth must be strengthened. Funding must be restored to 2002 levels or higher in order to provide meaningful federal dollars to the states to engage them in reform. Corresponding administrative regulations to the JJDP A must be updated to reflect current priorities and research in the field. Very few states are in full compliance with the requirements of JJDP A.

Proposed Solutions:

Executive:

The President should:

- Ensure that OJJDP and the states have the necessary resources to comply with the Act’s core requirements.
- Restore the role of OJJDP to serve as a comprehensive agency to (1) support state compliance with the JJDP A mandates and advancing juvenile justice reforms, and (2) provide a full range of services, including conducting research and gathering data, identifying and disseminating best practices and relevant information, leading demonstration projects, providing training and technical assistance, and promoting the expansion of effective practices in the field.
- Order the Department of Justice (DOJ) to work with Congress on legislative language to strengthen and reauthorize the JJDP A.⁴

The Office of Juvenile Justice and Delinquency Prevention should:

- Prioritize JJDP A implementation, promote state compliance with the Act, and provide technical assistance to states.
- Update JJDP A regulations to reflect current priorities and protections.
- Submit a timely, annual report to Congress and make all documents publicly available on OJJDP’s website.
- Increase agency accountability and transparency.

Legislative Changes:

Congress should:

- Strengthen and reauthorize the JJDP, and authorize and appropriate sufficient federal funding to enable state compliance with the Act.

Jurisdiction:

Executive Branch: Department of Justice, Office of Juvenile Justice and Delinquency Prevention

Legislative Branch: United States Senate Judiciary Committees
United States House of Representatives Education and Labor Committee

Background: Three congressional hearings were held on the JJDP in the 110th Congress.⁵ The U.S. Senate Committee on the Judiciary passed S. 3155, the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2008, and three strengthening amendments.⁶ The JJDP was not introduced in the House in the 110th Congress, but is likely to be introduced in early 2009. The Juvenile Crime Reduction Act, H.R. 3411, which improves the treatment of juveniles with mental health or substance abuse disorders,⁷ was introduced and referred to the House Subcommittee on Healthy Families and Communities.⁸

Potential Allies, Potential Opposition, and Public Opinion:

Potential Allies: Over 300 international and national organizations have supported a statement of principles, urging Congress to adhere to key principles in strengthening and reauthorizing the JJDP.⁹ The National Juvenile Justice and Delinquency Prevention Coalition, the National Alliance of Faith and Justice, and numerous national mental health organizations supported H.R. 3411. Other potential allies include the Academy of Criminal Justice Sciences, Center for Community Alternatives, Justice Policy Institute, National Association of School Psychologists, National Juvenile Justice Network, Office of Restorative Justice, International CURE, Virginia CURE

Experts:

- Shay Bilchik, Former Administrator of OJJDP (Georgetown Public Policy Institute)
- Nancy Gannon Hornberger (Coalition for Juvenile Justice)
- Liz Ryan (Campaign for Youth Justice)
- Mark Soler (Center for Children's Law and Policy)
- Kim Godfrey/Ned Loughran, Council of Juvenile Correctional Administrators

For Further Information:

Visit <http://www.act4jj.org/>

II. INCREASE SUPPORT FOR PREVENTION, EDUCATION, GANG INTERVENTION, MENTORING, JOB TRAINING, HEALTH AND MENTAL HEALTH SERVICES, AND COMMUNITY AND SCHOOL-BASED PROGRAMMING FOR YOUTH

Summary of the Problem: Misguided policies that purport to be “tough on crime” increase incarceration rates, disproportionately impact poor youth and youth of color, exacerbate the problem of gang-related crime, funnel a disproportionate number of youth who have a cognizable mental health and/or substance abuse disorder into the justice system, and can in fact make our communities less safe.

Research from top scholars in a variety of fields including economics, educational psychology, and public health reveals that public dollars spent on effective prevention and education programs are far more effective in stemming violence, curtailing crime and delinquency, and discouraging gang affiliation than broadening prosecutorial powers or stiffening criminal penalties for young people accused of crimes.¹⁰ Public opinion polling studies reveal that taxpayers overwhelmingly favor paying for prevention, education, and rehabilitation programs than prosecution and incarceration of youthful offenders.¹¹

Proposed Solutions:

Executive:

The President should:

- Create a Federal Taskforce including the DOJ, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Defense, the Department of Health and Human Services, the Substance Abuse Mental Health Services Administration, and the private sector¹² to prioritize juvenile justice prevention, intervention, and aftercare programs for youth at the cabinet and sub-cabinet levels.
- Establish a coordinated interagency approach to ensure the provision of community-based mental health and addiction services and treatment; screening, assessment and data collection regarding mental health and substance abuse conditions for youth who come into contact with the juvenile justice system.¹³
- Express public opposition to legislation that will widen the net of youth in the juvenile and adult criminal justice systems, over-criminalize and increase federal penalties for minor and nonviolent adolescent misbehavior, exacerbate racial and ethnic disparities in the juvenile and criminal justice systems, and increase incarceration rates in the United States.

The Office of Juvenile Justice and Delinquency Prevention should:

- Work with Congress, states and localities to coordinate gang prevention and intervention programs, and ensure effective use of federal funds for evidence-based and promising programs to prevent and intervene in gang involvement.

- Work in conjunction with the Federal Coordinating Council on Juvenile Justice to improve reporting on the prevalence of mental health and substance abuse disorders in the juvenile justice system.
- Issue regulations governing mental health assessments and data collection for youth who come into contact with the juvenile justice system.
- Assist states in coordinating with mental health systems to ensure that youth in the custody of the juvenile justice system receive timely mental health care when needed.
- Provide research and data on effective practices regarding juveniles with disabilities, and provide technical assistance to states to address the needs and rights of juveniles with disabilities.
- Promote research and data on the growing prevalence of girls in and at-risk of involvement with the juvenile justice system, and promote support for state programming to address gender-specific needs.
- Promote collaboration between juvenile justice and other child-serving systems including education and mental health to reduce racial and ethnic disparities that affect all these systems.

The Department of Education should:

- Establish and strengthen programs to encourage and support school behavior management and mental health programs, and to reduce criminalization of school misconduct.
- Work with OJJDP to extend school-wide positive behavioral interventions and supports into the juvenile justice system to improve treatment and outcomes for incarcerated youth.

Legislative Changes:

Congress Should:

- Support and pass the Youth Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education Act (Youth PROMISE Act), H.R. 3846,¹⁴ and reject the Gang Abatement and Suppression Act, S. 456, and its companion legislation, H.R. 3547, when introduced in the 111th Congress.¹⁵
- Require local educational agency (LEA) grantees to minimize the referral of students from schools to the juvenile and criminal justice systems, eliminate the use of zero tolerance policies, and eliminate the use of corporal punishment.¹⁶
Approach mental health and substance abuse through the lens of a public health model, including the availability of broad-based mental health screening, and pass legislation to provide greater availability of mental health and addiction services to students and youth at-risk for contact with the juvenile and criminal justice systems.¹⁷

Jurisdiction:

Executive Branch: Department of Justice (OJJDP)
Department of Education

Legislative Branch: House Education and Labor Committee
House and Senate Judiciary Committees
House Subcommittee on Crime, Terrorism and Homeland Security
Senate Health, Education, Labor and Pensions Committee

Background: The Youth PROMISE Act, H.R. 3846, has 87 bipartisan co-sponsors in the House, and is likely to be introduced in the Senate in early 2009.

The Gang Abatement and Prevention Act, S. 456, passed the Senate by unanimous consent, but faces increasing opposition from national organizations and within the House of Representatives. The House companion legislation to S. 456 is H.R. 3547, which has 25 cosponsors. After expressing concern about the negative impact this legislation will have on youth and communities of color, eight members of the House of Representatives formally withdrew support for H.R. 3547.¹⁸

Potential Allies, Potential Opposition, and Public Opinion:

Potential Allies: The Youth PROMISE Act has strong bipartisan support in Congress, and from national education, health, mental health, juvenile justice, civil rights, human rights, law enforcement, government and non-governmental organizations and coalitions. The Los Angeles City Council is considering a resolution in support of the Youth PROMISE Act, and several Mayors are considering resolutions in support of the legislation. National organizations and individuals throughout the criminal justice field have expressed support for community and school-based prevention and intervention programs,¹⁹ and have expressed opposition to duplicative and costly penalties and approaches in S. 456, including the Heritage Foundation <http://www.heritage.org/Research/Crime/wm1619.cfm> the National Juvenile Justice and Delinquency Prevention Coalition, the National Alliance of Faith and Justice, Human Rights Watch, <http://hrw.org/english/docs/2008/04/07/usdom18461.htm>, Center for Community Alternatives, Citizen Schools, Justice Policy Institute, National Association of School Psychologists, National Juvenile Justice Network, Office of Restorative Justice, International CURE, Virginia CURE, and the Council for Juvenile Correctional Administrators. ATF has also raised concerns about the concept of a duplicative gang database proposed in S. 456. The Government Accountability Office has requested a study regarding the use of existing federal statutes (primarily RICO) in prosecuting gang-related offenses, lending support to the argument that federal gang penalties are duplicative and unnecessary.

The Chairman of the Crime Subcommittee, Rep. Bobby Scott (D-VA), held a crime summit on June 2007, which addressed the benefits of prevention and early intervention methods as effective crime prevention and reduction strategy.
<http://www.house.gov/scott/pdf/crimesummit.pdf>

The Senate Judiciary Committee held a hearing on September 10, 2008, on “New Strategies for Combating Violent Crime: Drawing Lessons from Recent Experience” which also emphasized the importance of prevention and intervention.

<http://judiciary.senate.gov/hearings/hearing.cfm?id=3541>

Experts:

Federal Gang Legislation

- Dr. Charles Ogletree, Harvard Law School
- Carol Chodroff, Human Rights Watch
- Tara Andrews, Coalition for Juvenile Justice

Comparative Policy Approaches and Juvenile Justice Reform

- Professor Kristin Henning, Georgetown Law School
- Dr. Barry Krisberg, National Council of Crime and Delinquency
- Deborah Prothrow-Stith, Harvard School of Public Health
- Bobby Vassar, Chief Counsel to Congressman Bobby Scott (D-VA)

Mental Health and Substance Abuse

- Julio C. Abreu, Mental Health America (formerly NMHA)
- Micah Haskell-Hoehl, American Psychological Association
- Christine Leonard, Senior Counsel to Senator Edward Kennedy
- Alexa Eggleston, National Council for Community Behavioral Healthcare

Economic Analysis of Prevention as Cost-Effective Crime Policy

- Steve Aos, Washington State Institute for Public Policy
- John Roman, Urban Institute

For Further Information:

<http://chhi.podconsulting.com/assets/documents/publications/NO MORE CHILDREN LEFT BEHIND.pdf>

http://www.house.gov/scott/hotissues_youthpromiseact.shtml

http://hrw.org/english/docs/2008/04/07/usdom18461_txt.htm

III. PROTECT YOUTH IN THE JUVENILE JUSTICE SYSTEM

Summary of the Problem: Sanctions imposed for juvenile offenses should reflect a young person's age, level of development, and greater potential for rehabilitation,²⁰ and sentences should be proportionate. Children held in adult jails and prisons are particularly vulnerable to victimization, and all too often face dangerous and abusive conditions of confinement. There are 2,484 people in the United States currently sentenced to die in prison for an offense they committed when under the age of 18; not a single youth is serving this sentence anywhere else in the world. All youth in the juvenile justice system must have prompt access to qualified legal counsel. Youth who commit crimes must be held accountable, but no juvenile court disposition, regardless of the offense, should ever include abuse, mental health deterioration, or death in prison.

Proposed Solutions:

Executive:

The President should:

- Promote the enforcement of national standards for safe and humane conditions of confinement in juvenile facilities.
- Promote strategies to reduce over-reliance on incarceration for youth who are not a threat to public safety, especially for youth charged with technical violations of probation.²¹
- Order federal agencies to issue administrative regulations to protect vulnerable children and families.
- Order DOJ to work with Congress to abolish the sentence of life without parole for children convicted of federal crimes.

OJJDP should:

- Support states and provide technical assistance to improve conditions of confinement and the collection of data regarding restraint and isolation.
- Collect state and federal data regarding: (1) children who are held in adult jails and prisons, (2) children who are transferred into the adult criminal justice system, (3) the legal mechanism by which youth are transferred, and (4) the effects and collateral consequences of transfer.
- Maintain an ongoing and open dialogue with juvenile justice stakeholders to determine and address other data deficiencies for youth in the juvenile justice system, including violation and recidivism information.

Congress should:

- Include language in the JJDPA requiring states to prohibit use of dangerous practices, unreasonable restraint and unreasonable isolation of youth, and to ensure prompt access to qualified counsel for all youth in the juvenile justice system.

- Exempt juveniles from the Prison Litigation Reform Act. (see Chapter 8: Prison Reform).
- Promote the use of developmentally appropriate sanctions, remove children from adult jails and prisons, and eliminate the use of life without parole sentences for juvenile offenders.

Jurisdiction:

Executive Branch: Department of Justice (OJJDP)

Legislative Branch: Senate and House Judiciary Committees
House Subcommittee on Crime, Terrorism and Homeland Security

Background: The House of Representatives Subcommittee on Crime, Terrorism and Homeland Security held a hearing on H.R. 4300 and the issue of juvenile life without parole on September 11, 2008. http://judiciary.house.gov/hearings/hear_090911_2.html

Potential Allies, Potential Opposition, and Public Opinion:

Potential Allies: Juvenile Justice and Delinquency Prevention Coalition, NAACP Legal Defense and Educational Fund, Center for Community Awareness, Justice Policy Institute, National Association of School Psychologists, National Juvenile Justice Network, Office of Restorative Justice, International CURE, Virginia CURE, and Equal Justice Initiative.

Experts:

- Liz Ryan, Campaign for Youth Justice
- Mark Soler/Dana Shoenberg, Center for Children’s Law and Policy
- Bryan Stevenson, Equal Justice Initiative
- Carol Chodroff, Human Rights Watch

For Further Information:

<http://www.campaign4youthjustice.org/>

http://hrw.org/children/juvenile_justice.htm

NAACP Legal Defense and Educational Fund, *No Chance to Make It Right: Life Without Parole for Juvenile Offenders in Mississippi*, (May 2008), available at http://naacpldf.org/content/pdf/No_Chance_to_Make_it_Right.pdf.

¹ Annie E. Casey Foundation's 2008 Kids Count Essay: A Road Map for Juvenile Justice Reform http://www.kidscount.org/datacenter/db_essay.jsp

² For more information, please see: http://www.act4jj.org/media/factsheets/factsheet_28.pdf

³ For more information, please see testimony of Shay Bilchik, former OJJDP Administrator, before the US House of Representatives, Judiciary Committee, Subcommittee on Crime, Terrorism and Homeland Security on September 18, 2008 at <http://judiciary.house.gov/hearings/pdf/Bilchik080918.pdf>.

⁴ For more information, please see http://www.act4jj.org/media/factsheets/factsheet_56.pdf

⁵ Testimony and statements are available at the following link: http://www.act4jj.org/hill_hearings.html

⁶ Amendments to increase mental and behavioral health and substance abuse services and to phase-out use of the valid court order exception both passed. <http://hrw.org/english/docs/2008/07/14/usdom19359.htm>

⁷ For a summary of this legislation, see <http://hfaa.net/JCRA%20Section-by-Section1.doc>.

⁸ For more information, please see: www.act4jj.org

⁹ http://www.act4jj.org/media/factsheets/factsheet_11.pdf Letters in support of the reauthorization are available at the following link: http://www.act4jj.org/hill_letters.html

¹⁰ In recent years, a wide range of reputable organizations have commissioned or conducted related research and reached similar conclusions. These include the American Psychological Association, the Washington State Institute for Public Policy, the Social Development Research Group of Seattle, Washington, and the U.S. Government's own Office of Juvenile Justice and Delinquency Prevention. For more information, see [http://chhi.podconsulting.com/assets/documents/publications/NO MORE CHILDREN LEFT BEHIND.pdf](http://chhi.podconsulting.com/assets/documents/publications/NO_MORE_CHILDREN_LEFT_BEHIND.pdf)

¹¹ Models for Change, Systems Reform In Juvenile Justice, Rehabilitation Versus Incarceration of Juvenile Offenders: Public Preferences in Four Models for Change States www.modelsforchange.net/pdfs/WillingnesstoPayFINAL.pdf

¹² See e.g., the John D. and Catherine T. MacArthur Foundation, *Models for Change*, http://www.macfound.org/site/c.lkLXJ8MOKrH/b.943477/k.9538/Domestic_Grantmaking

Juvenile Justice.htm and the Youth Transition Funders Group – a network of grantmakers whose mission is to help all youth make a successful transition to adulthood by age 25. <http://www.ytfg.org/>

¹³ For information and an example of interagency collaboration in the provision of mental health services in one state (California), see http://www.calendow.org/chc/centerscene/pdfs/CHC_CenterSceneFA07_final.pdf and NCCD, *A Survey of Mental Health Care Delivery to Youth in the California Juvenile Justice System: Summary of Findings* http://www.nccd-crc.org/nccd/pubs/calif_jj_survey_2003.pdf

For further analysis, see Thomas Grisso's *Adolescent Offenders with Mental Disorders*, *The Future of Children*, Vol. 18, No. 2, Fall 2008. http://www.futureofchildren.org/usr_doc/Justice_08_02.pdf

¹⁴ For more information about the Youth PROMISE Act, see http://www.house.gov/scott/hotissues_youthpromiseact.shtml

¹⁵ For more information contrasting these federal approaches to gang crime and violence, please see: http://www.house.gov/scott/pdf/HRW_supportypa_opphr3547.pdf

and [http://chhi.podconsulting.com/assets/documents/publications/NO MORE CHILDREN LEFT BEHIND.pdf](http://chhi.podconsulting.com/assets/documents/publications/NO_MORE_CHILDREN_LEFT_BEHIND.pdf)

¹⁶ For more information about school referrals and zero tolerance policies, see the Children's Defense Fund Cradle to Prison Pipeline Campaign <http://www.childrensdefense.org/site/PageServer?pagename=c2pp>. For more information about the use of corporal punishment in schools, see Human Rights Watch, *A Violent Education: Corporal Punishment of Children in US Public Schools* <http://www.hrw.org/reports/2008/us0808/us0808web.pdf>

¹⁷ One study cited in the Congressional findings of the All Healthy Children Act, HR 1688, revealed that when juvenile offenders arrested for minor offenses had access to intensive and coordinated mental health services, more than a third fewer were re-arrested the following year, compared to those who only had access to basic mental health services. Congressional findings for H.R. 1688, the All Healthy Children Act of 2007, finding # 15. <<http://www.govtrack.us/congress/bill.xpd?bill=h110-1688>> GovTrack.us. H.R. 1688--110th Congress (2007): All Healthy Children Act of 2007, *GovTrack.us (database of federal legislation)* (accessed Oct 30, 2008).

¹⁸ For a copy of the bill, please see: <http://www.govtrack.us/congress/bill.xpd?bill=h110-3547>. GovTrack.us. H.R. 3547--110th Congress (2007): Gang Prevention, Intervention, and Suppression Act, *GovTrack.us (database of federal legislation)* <<http://www.govtrack.us/congress/bill.xpd?bill=h110-3547>> (accessed Oct 30, 2008)

¹⁹ For letters of support, please see: http://www.house.gov/scott/hotissues_youthpromiseact.shtml http://www.house.gov/scott/pdf/Promise_Act_support.pdf and http://www.nami.org/Template.cfm?Section=Child_and_Adolescent_Action_Center&template=/ContentManagement/ContentDisplay.cfm&ContentID=23448

²⁰ In *Roper v. Simmons*, 543 U.S. 551, 561 (2005), the US Supreme Court found that the differences between juveniles and adults render suspect any conclusion that a juvenile falls among the worst offenders.

²¹ Holman, Barry and Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Justice Policy Institute, (Nov. 06), available at: http://www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf