

2014

**State of Utah, Plaintiff/ Appellee, v. Cooper John Anthony Van
Huizen Defendant/ Appellant.**

Utah Court of Appeals

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IN THE
UTAH COURT OF APPEALS

STATE OF UTAH,
Plaintiff/Appellee,

v.

Cooper John Anthony Van Huizen
Defendant/Appellant.

APPEAL NO. 20140602

BRIEF OF AMICUS CURIAE

Appeal from the bindover order entered by the Second District Juvenile Court, the Honorable Michelle Heward presiding, transferring Cooper John Anthony Van Huizen to the District Court, the Honorable Ernie Jones presiding, pursuant to the Serious Youth Offender statute, see Utah Code § 78A-6-702 (2013).

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During the 72 days I spent in jail as a 17-year-old . . . I was called names and laughed at by the guards and inmates. I was bored every day because we only had an hour in the exercise room twice per week. . . . "School," if I went, which most of the time I didn't because the guards forgot about me, wasn't school at all. I was afraid I would be assaulted by the guards and inmates and at night I couldn't sleep because I was so scared. I didn't get the medications I needed so my paranoia grew worse and I got panic attacks when errors in visitation scheduling prevented me from seeing my family. My time in jail has left me depressed and ashamed of myself. I no longer have any friends because they are ashamed of me, too. I feel like I don't belong in public anymore and big, open spaces scare me because jail was so small. My future and my family will never be the same because of my time in jail. We are mistreated in jail and taken advantage of by the inmates and the system.

--Sam, 17 year old youth who spent 72 days in an adult jail while awaiting trial¹

ARGUMENT

Juveniles walk the difficult line between the innocence and immaturity attendant to childhood and the accountability of adulthood. The law bears out this tension. On the one hand, the law attempts to shield juveniles from the perils of their immature decision making and their biological tendency toward impulsivity. For example, twenty nine states have laws that make the legal alcohol consumption age twenty one years of age. See Alcohol Policy Information System, Nat'l Inst. On Alcohol Abuse and Alcoholism, Exceptions to Minimum Age of 21 for Consumption of Alcohol as of

¹ See Campaign for Youth Justice Report, 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 (last visited Mar. 17, 2015).

January 1, 2007 (Jan. 2008) *available at*, <http://apis.niaaa.nih.gov> (last visited Mar. 17, 2015). In forty eight states, the legal age of marriage is eighteen unless a minor obtains judicial or parental consent. See Cornell Law School Legal Information Institute, Marriage Laws of the Fifty States, District of Columbia and Puerto Rico, *available at* http://www.law.cornell.edu/topics/Table_Marriage.htm, (last visited Mar. 17, 2015). And nationwide, juveniles cannot drive until they are sixteen or vote or join the military until they are eighteen years old. Clearly, these laws are intended to protect juveniles from their own inexperience and immaturity while also giving them the opportunity to grow and learn.

On the other hand, the law imposes harsh penalties on juveniles in the criminal justice system. In forty four states and the District of Columbia, children as young as fourteen—who cannot drive a car, vote, or sign a legally binding contract—can be tried in the adult criminal justice system and sent to adult prisons. See Office of Juvenile Justice and Delinquency Prevention, Nat'l Center for Juv. Justice, Trying and Sentencing Juveniles as Adults: An Analysis of State Transfer and Blended Sentencing Laws, *available at* <http://ncjj.servehttp.com/NCJJWebsite/pdf/transferbulletin.pdf>. (last visited Mar. 2015). And fifteen states adjudge children as young as ten years old competent and mature enough to be put on trial in juvenile court. See Office of Juvenile Justice and Delinquency Prevention, U.S. Dep't of Justice, Trying and Sentencing Juveniles as Adults: An Analysis of State Transfer Provisions, (2009) , *available at* <http://ojjdp.ncjrs.org/pubs/tryingjuvasadult/toc.html>, (last visited Mar. 17, 2015).

Every year in the United States, an estimated 250,000 youth are tried, sentenced, or incarcerated as adults. See Campaign for Youth Justice, U.S. Dep't of Justice, State Trends: Legislative Victories from 2005 to 2010 Removing Youth from the Adult Criminal Justice System, (2011), *available at*, http://www.campaignforyouthjustice.org/documents/CFYJ_State_Trends_Report.pdf, (last visited Mar. 17, 2015). On any given day, approximately 7,500 youth are incarcerated in adult prisons. Most of the youth prosecuted in adult court are charged with non-violent offenses. See id. See also Addendum A (Graph—Violent Index Offenses).

Research shows that young people who are kept in the juvenile justice system are less likely to reoffend than young people who are transferred into the adult criminal system. In fact, according to the Centers for Disease Control and Prevention, youth who are transferred from the juvenile court system to the adult criminal system are approximately 34% more likely than youth retained in the juvenile court system to be re-arrested for violent or other crime. See Centers for Disease Control and Prevention, Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A report on Recommendations of the Task Force on Community Preventive Services, *available at*, <http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>, (last visited Mar. 17, 2015). Moreover, youth sentenced as adults receive an adult criminal record, are often denied

employment and educational opportunities, and can be barred from receiving student financial aid. See State Trends.

There is overwhelming evidence that transferring youth to the adult criminal justice system and incarcerating juveniles in adult jails and prisons is ineffective, dangerous, increases recidivism, and economically wasteful. Many states have made substantial progress in reducing reliance on youth incarceration in the past 15 years. In fact, between 2001 and 2011, the rate of youth committed and in residential placement declined forty six percent (46%). See Justice Policy Institute, Sticker Shock: Calculating the Full Price Tag for Youth Incarceration, (Dec. 2014). Importantly, this trend of “juvenile deincarceration” has also coincided with a decrease in crime and with policy changes in juvenile justice. See Addendum B (Graph—Decrease in Juvenile Crime). Many policymakers now agree that confining youth does more harm than good and should be avoided except when absolutely necessary. Id. Despite the research and trends, the practice of transferring youth to the adult system and confining them in adult prisons continues.

This brief of *amicus curiae* Utah Juvenile Defender Attorneys is intended to provide this Court with some of the most recent information regarding the transfer of youth to the adult criminal justice system and incarcerating youth in adult jails and prisons. First, the brief discusses the reasons why the adult system is ill-equipped to deal with the unique needs of juveniles. Second, the brief addresses the dangers faced by youth who are sentenced to adult prisons, including increased risk of suicide, rape,

and isolation. Third, the brief discusses the disparities in confinement rates for youth of color. Finally, the brief discusses the costs to taxpayers of incarcerating youth.

I. The Adult System Is Ill-Equipped to Meet Juveniles' Unique Needs

Adolescent brain development scientific research has uncovered new and important developmental differences between adolescents and fully mature adults. Through this research, we now know that the area of the brain that controls “executive functions” such as reasoning, advanced thinking, and impulse control—the pre-frontal cortex—is the last area of the human brain to completely mature, which provides insight into why juveniles have trouble making decisions. See National Institute of Mental Health, Time-Lapse Imaging Tracks Brain Maturation from Ages 5 to 20, (2004). The pre-frontal cortex area of the brain

coordinates higher-order cognitive processes and executive functions[, which] are a set of supervisory cognitive skills needed for goal-directed behavior, including planning, response inhibition, working memory, and attention. These skills allow an individual to pause long enough to take stock of a situation, assess his or her options, plan a course of action, and execute it. Poor executive functioning leads to difficulty with planning, attention using feedback, and mental inflexibility, all of which could undermine judgment and decision-making.

Jay N. Giedd, Sara B. Johnson, Robert W. Blum, Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy, *available at* [http://www.jahonline.org/articles/S1054-139X\(09\)00251-1/fulltext#sec3](http://www.jahonline.org/articles/S1054-139X(09)00251-1/fulltext#sec3), (last visited Mar. 17, 2015).

Relying heavily on adolescent brain development scientific research, the United States Supreme Court has repeatedly acknowledged that juveniles are different in constitutionally significant ways. Indeed, in a series of landmark decisions, the Supreme Court has recognized and adopted the brain science research in several important decisions affecting juvenile justice jurisprudence. See Miller v. Alabama, 132 S.Ct. 548 (2012) (adopting adolescent brain development scientific research and holding that mandatory life without parole sentences for homicide offenses, where mitigating factor of youth is not considered, violates the Eighth Amendment's prohibition of cruel and unusual punishment); J.D.B. v. North Carolina, 132 S.Ct. 2455 (2012) (acknowledging adolescent brain development scientific research and holding that courts and law enforcement must consider age in determining whether a youth has voluntarily waived his Miranda admonitions); Graham v. Florida, 560 U.S. 48 (2010) (concluding that given the limited moral culpability of younger offenders and the greater prospects for reform, a sentence of no possibility of parole for non-homicide offenders violated the Eighth Amendment's prohibition against cruel and unusual punishment).

This new brain science research and juvenile justice jurisprudence raises compelling questions about the practice of transferring children to the adult criminal system. Specifically, how do we ensure that young offenders are held accountable when we now know that they have not finished developing, either emotionally or psychologically? Moreover, how do we ensure that the punishments imposed by the

criminal justice system don't permanently compromise a juvenile's nascent adolescent development?

Adult jails are designed for adult inmates, where juvenile detention facilities are designed for youth. The obvious result is that juvenile and adult facilities provide vastly different services for the individuals they house. For everything from meals to health care, juveniles have special, specific needs that adult facilities are often unable or ill-equipped to handle. For example, juveniles have different nutritional needs because their bodies are growing and changing so quickly. Moreover, juveniles have unique medical and dental needs because these areas are also changing rapidly during adolescence. See J.L. Woolard, Juveniles within Adult Correctional Settings: Legal Pathways and Developmental Considerations, International Journal of Forensic Mental Health, 4(2), p. 1-18 (2005). Adult correctional facilities are simply not equipped to address juveniles' unique needs.

Staffing

One of the reasons why juvenile facilities are better equipped to deal with youth is staffing. Unfortunately, through no fault of their own, the staff in adult jails and prisons often find themselves in an impossible position because the way they have been trained to deal with 99% of the prison population (the adult prisoners), is the "wrong way" to deal with the remaining 1% of the population—developing youth who happen to be inmates.

Additionally, adult facilities are often understaffed compared to juvenile facilities. In fact, while juvenile facilities tend to operate at a ratio of 1 staff to every 8 inmates, the ratios in adult system can be as high as 1 staff to 64 inmates. See J.L. Woolard, Juveniles within Adult Correctional Settings: Legal Pathways and Developmental Considerations, Int'l J. Forensic Mental Health, 4(2), p. 1-18 (2005). This lower staff-to-youth ratio is important for ensuring that youth engage in regular exercise, educational activities, and healthy, pro-social activities. Moreover, as a general rule, it is easier for juvenile facilities to even offer these activities because they have access to classrooms and gyms and are not as limited by the physical constraints found in adult prisons and jails. Many adult facilities simply cannot offer these services and programs because youth need to be kept separated from the general population to be safe—so they are often kept in their cells or in other secluded sections of the jail.

Finally, at least one study found that youth in juvenile detention facilities considered their staff as being more helpful in teaching them life skills, improving their interpersonal relationships, and assisting them with meeting their personal goals when compared with youth in adult facilities. See id.

Educational Neglect

Housing youth in adult facilities often results in educational neglect. Most youth are denied educational services that are necessary for their stage of development when they are housed in adult facilities. In fact, a survey of adult facilities found that 40% of jails provided no educational services at all, only 11% provided special education

services, and a mere 7% provided any kind of vocational training. See Bureau of Justice Statistics, U. S. Dep't of Justice, Education and Correctional Populations, U.S. (Jan. 2003), *available at*, <http://files.eric.ed.gov/fulltext/ED477377.pdf> (last visited Mar. 17, 2015). Without proper educational services, youth are at extremely high risk of falling even further behind in school, even though they are legally entitled to an education.

Because of their young age, most youth in adult jails and prisons have not completed their high school education and need classes to graduate or to acquire skills to obtain a job upon release. While juvenile detention facilities often have full-time educational staff, adult jails offer weak educational programs and it is unusual for jails to have classrooms.

Educational neglect not only harms youth, but it affects public safety. The Justice Policy Institute found that in comparing educational attainment and crime trends, graduation rates were associated with positive public safety outcomes. See Justice Policy Institute, Education and Public Safety, (Aug. 2007), *available at*, http://www.justicepolicy.org/images/upload/07-08_RFP_EducationAndPublicSafety_PS-AC.pdf, (last visited Mar. 17, 2015) (finding that a 5% increase in male high school graduation rates would produce an annual savings of almost \$5 billion in crime-related expenses). One study done by the *American Economic Review* found that a one-year increase in the average years of schooling completed reduces violent crime by approximately 30%. See id.

It is absolutely imperative that youth who are incarcerated do not fall further behind in school because education, particularly high school graduation, is a critical benchmark when transitioning from childhood to adulthood. Reaching this milestone has a very “normalizing effect” on a juvenile. See id. The adult system is simply incapable of providing the educational services youth need.

II. Adult Prisons are Dangerous for Children

Each year in the United States, as many as 200,000 youth are prosecuted as adults. See Coalition for Juvenile Justice, Childhood on Trial: The Failure of Trying and Sentencing Youth in Adult Criminal Court, (Mar. 2005), *available at*, <http://www.jillwolfson.com/journalism/trial.html>, (last visited Mar. 17, 2015). On any given night in America, 10,000 children are held in adult jails and prisons. See Bureau of Justice Statistics, U. S. Dep’t of Justice, Prison Inmates at Midyear 2010, (Jan. 2010), *available at*, http://oea.org/dsp/Observatorio/Tablas/usa/US_prison_inmates_statistical_tables_2008.pdf, (last visited Mar. 17, 2015). State laws vary widely as to whether youth can be housed in adult facilities. And although the federal Juvenile Justice and Delinquency Prevention Act (JJDPa) requires that youth in the juvenile justice system be removed from adult jails or be sight-and-sound separated from other adults, these protections

do not apply to youth who, like Cooper, are prosecuted in the adult criminal justice system.²

It is difficult, if not impossible, to keep juveniles safe in adult jails and prisons. When youth are housed with adults they are at significantly greater risk for suicide, sexual assault, isolation, and recidivism.

Increased Risk of Suicide

Kirk was accused by older men of being "immature;" each day he had to teach himself during the one hour of "school" because the teacher was frequently unavailable; the noise level in his block gave him headaches; a convicted sex offender exposed himself to Kirk; he was involved in a couple of physical confrontations, his depression increased; and he was so bored that his thoughts consumed him. . . . Our family, extended and immediate, and a community of supportive friends and neighbors, did our best to support Kirk while he was in jail. Together, we never missed a phone call or a visit. . . . Two days after Christmas in 2005, Kirk was placed in confinement, known as "the hole" . . . Kirk requested not to be alone because he was having anxiety. Despite his request for help and regulations requiring one-hour checks on inmates in confinement, Kirk was left alone for approximately two and a half hours. When jail staff finally checked on Kirk, my son was found dead hanging by a blanket from the smoke detector in the cell.

Vicky—Mother of Kirk who committed suicide while awaiting trial in an adult prison.³

² In Utah, a juvenile who has been charged as a serious youth offender and bound over to the jurisdiction of the district court "shall be detained in a jail or other place of detention used for adults." See Utah Code § 62A-7-201(2)(a) (2010) ("Children charged with crimes . . . as a serious youth offender . . . and bound over to the jurisdiction of the district court . . . if detained, shall be detained in a jail or other place of detention used for adults.").

³ See Campaign for Youth Justice Report, Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America, (2007).

Youth in adult prisons are nineteen times more likely to commit suicide than are their counterparts in the general population. In fact, according to the U.S. Department of Justice's Bureau of Justice Statistics, prison inmates under age eighteen had the highest suicide rate of all inmates (101 per 100,000). In comparison, the rate of suicide for youth ages 14-17 who were not in jail during that same time was 5.32 per 100,000. See Office of Statistics and Programming, Nat'l Center for Injury Prevention, United States Suicide Injury Deaths and Rates per 100,000 All Races, Both Sexes, Ages 14 to 17 (Jul. 2007), *available at*, <http://www.cdc.gov/ncipc/wisqars/default.htm>, (last visited Mar. 2015).

There are logical reasons why suicide rates are so high for incarcerated youth. In the general population, suicide risk factors include mental disorders, substance abuse, impulsive aggression, parental substance abuse and depression, poor family structure and support, and family dysfunction. See National Center on Institutions and Alternatives, Juvenile Suicide in Confinement: A National Survey, (Feb. 2004)*available at*, <http://www.ncjrs.gov/pdffiles1/ojdp/grants/206354.pdf>, (last visited Mar. 17, 2015). It stands to reason that these same risk factors are present—presumably at similar if not greater rates—for youth incarcerated in adult correctional facilities. One national expert in the field of suicide prevention suggests that

if all youth are to some degree at risk for suicide, it could be argued that juveniles in confinement are at greater risk because they have life histories that predispose them to suicide, e.g., mental disorders and substance abuse, physical, sexual and emotional abuse, and

perhaps most importantly, current and prior self-injurious behavior.”

Id.

Rape and Sexual Assault

Youth who are held in adult facilities are at the greatest risk of sexual victimization. According to research by the Bureau of Justice Statistics, youth under the age of 18 represented 21 percent of all substantiated victims of inmate-on-inmate sexual violence in jails in 2005, and 13 percent in 2006—which is extremely high given that only 1% of all jail inmates are juveniles. Office of Justice Statistics, U.S. Dep’t of Justice, Sexual Violence Reported by Correctional Authorities, (Aug 2007), *available at* <http://www.prearesourcecenter.org/sites/default/files/library/112-sexualviolencereportedbycorrectionalauthorities2006.pdf>, (last visited Mar. 17, 2015). The National Prison Rape Elimination Commission found that “more than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk for sexual abuse.” National Prison Rape Elimination Commission, Report 18 (June 2009), *available at*, <http://www.ncjrs.gov/pdffiles1/226680.pdf>.

Even for youth not directly assaulted, juveniles in adult prisons live in constant fear of sexual assault, or of witnessing the sexual assault of others—and the psychological effects of that fear can be devastating. In fact, many youth engage in bad behavior as a mechanism of self-protection:

What youth tended to do to protect themselves, particularly when the lights were out in the dormitory, was often to assault staff to get locked up, and they didn't mind being locked up 23 hours a day if that meant, as they would often say, not having to watch your back. . . . [L]ockup units were populated with essentially what they called protective custody cases. These were not gang-bangers, these were not violent youths, these were youth trying to escape the victimization that was going on in the dormitories. Another way out was to engage in abnormal behavior . . . so that the psychologist and psychiatrist would . . . get you out of these terrible dormitories and into some single room where you'd feel some modicum of safety.

Testimony by Dr. Barry Krisberg, President of the National Council on Crime and Delinquency, National Prison Rape Elimination Commission, *available at*, http://www.nprec.us/docs/boston_natureofproblem_krisberg.pdf.

Use of Isolation

Federal law and the Office of Juvenile Justice and Delinquency Prevention guidelines require states to keep youth who are under the jurisdiction of the juvenile court out of adult jail or be sight-and-sound separated from other adults. However, there is a loophole. The law does not apply to youth who are charged as adults. See supra n. 2. Corrections officials are therefore faced with the difficult catch-22 scenario: they simply can't keep youth safe from the adult prisoners and therefore, they often must resort to often using segregation or isolation as a way to "protect" youth from violence by other prisoners. However, segregating youth in isolation/solitary confinement creates a different, but similarly harmful result.

When youth are segregated in jails, they are often placed in conditions that are identical to solitary confinement. In that environment, youth can be locked down 23-24 hours a day in a small cell with no natural light and no view outside of their cell. They have limited or no contact with other inmates or staff. Research shows that periods of isolation are extremely harmful and make treatment very difficult. The effects of isolation are profound and for youth, the stress can have permanent consequences:

The political stereotype is that a fourteen- or sixteen-year-old who commits an adult crime must be as sophisticated as an adult when paradoxically these kids are most often younger than their age emotionally. Regardless of what they have done, they are in an uncertain, unformed state of social identity. These are kids who are the least appropriate to place in solitary confinement. Not only are you putting them in a situation where they have nothing to rely on but their own, underdeveloped internal mechanisms, but you are making it impossible for them to develop a healthy functioning adult social identity. You're basically taking someone who's in the process of finding out who they are and twisting their psyche in a way that will make it very, very difficult for them to ever recover.

M. Olsen, Kids in the Hole—Juvenile Offenders, The Progressive 67(8) (Aug. 2003), *available at*, http://findarticles.com/p/articles/mi_m1295/is_8_67/ai_106225215.

Contagion Effect/Increased Recidivism

Another danger of having youth placed in the adult criminal justice system is that it dramatically increases their likelihood of reoffending. Housing youth with adult offenders exposes them to “role models” and this has a “contagion” effect. In fact,

doctors and criminologists agree that children who are transferred to the adult criminal justice system are far more likely to be re-arrested more often, more quickly, and for more serious offenses. The Centers for Disease Control and Prevention Task Force on Community Preventive Services released findings showing that policies that transfer youth to the adult system are “counterproductive for the purpose of reducing violence and enhancing public safety.” A. McGowan, R. Hahn, Effects on Violence of Laws and Policies Facilitating the Transfer of Juveniles from the Juvenile Justice System to the Adult Justice System: A Systematic Review, American Journal of Preventative Medicine, 32(4S), S7-S-28.

Moreover, exposing youth to an environment where inmates are committing crimes against one another may socialize youth into becoming chronic offenders when they might not have before. Some researchers have found that young inmates will often try to find ways to “fit in” with the inmate culture, which involves creating an identity that minimizes their youthful status and forces them to accept violence as a routine part of institutional life. See J.L. Woolard, Juveniles within Adult Correctional Settings: Legal Pathways and Developmental Considerations, International Journal of Forensic Mental Health, 4(2), 1-18 (2005), *available at*, <http://www.iafmhs.org/files/Woolardspr05.pdf>.

III. Disparate Incarceration Rates for Youth of Color

It can never be stated enough that people of color are disproportionately represented in the criminal justice system. This is true of both adults and juveniles. At

virtually every stage of the juvenile justice process, youth of color—particularly African-Americans and Latinos—receive harsher treatment than white youth, even when they enter the system with the same charges and offending histories. For example, compared to white juveniles, African-American youth are more likely to be formally charged; more likely to be detained pending trial; and more likely to be confined and less likely to receive a probation sentence. African-American youth are nine times as likely to be sentenced to adult prisons as white youth. See National Council on Crime and Delinquency, *And Justice for Some: Differential Treatment of Youth of Color in the Justice System*, (Jan. 2007), *available at* www.nccd-crc.org/need/pubs/2007jan_justice_for_some.pdf, (last visited Mar. 17, 2015).

Youth of color represent 41% of the overall U.S. youth population, but 69% of those in confinement. While decline in confinement has occurred across all of the five largest racial groups, large disparities remain in youth confinement rates by race. For example, in 2010, white youth were confined at a rate of 127 per 100,000 youth, while African-American youth were confined at a rate of 605 per 100,000 youth. Stated another way, African-American youth are nearly five times as likely to be confined as their white peers.

In 2003, youth of color were detained at higher rates than white youth in 48 out of 50 states and the District of Columbia. The detained population's rapid growth over the past two decades—it has essentially doubled—is due almost exclusively to vastly increased rates of detention for African-American and Latino youth that greatly exceed the growth in arrest rates for serious crimes by these youth.

The Annie E. Casey Foundation, Detention Reform: An Effective Approach to Reduce Racial and Ethnic Disparities in Juvenile Justice (2009). See also Addendum D (Graph—Rates of Incarceration by Race). The gross overrepresentation of youth of color in confinement cannot be explained by different rates of offending. For example, youth report using and selling drugs at similar rates, but young people of color represent 65% of juveniles detained for drug offenses. And while African-American juveniles constitute 28% of those arrested, they comprise almost 40% of those detained and confined. *See id.* These inequities simply cannot be ignored when considering the appropriateness of transferring a youth to the adult criminal justice system.

IV. The Costs of Confinement⁴

Most states are spending vast sums of taxpayers' money on correctional institutions that house juveniles. The dollar figures associated with juvenile confinement are astronomical. According to a study done by the Justice Policy Institute, which collected information from 47 states in late 2014, the most expensive confinement placement for a juvenile is "\$401 per day, \$36,074 per three months, \$72,149 per six months, and \$146,302 per year. Thirty-four states and jurisdictions reported spending \$100,000 or more on the most expensive confinement [detention]." *See Addendum C (Justice Policy Institute Factsheet).* According to that same study,

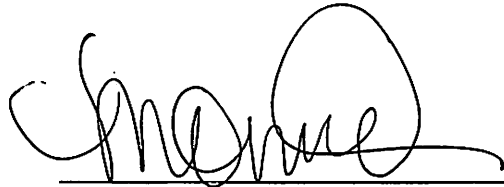
⁴The costs of confinement discussed in this brief are the costs associated with confining juveniles in juvenile facilities. However, there is no reason to assume that the costs for confining a juvenile in an adult facility would be significantly different.

Utah taxpayers in Utah spend hundreds of dollars a day to confine a juvenile in a juvenile facility. In fact, it costs the taxpayers \$214.12 per day; \$19,271 per three months; \$38,542 per six months; and \$78,154 per year to house a juvenile in detention. When the annual costs of incarcerating one juvenile in Utah are compared with other investments in that same youth, the figures are staggering. In fact, one year of tuition, off-campus room and board, books, transportation and fees at the University of Utah costs \$23,114. Twenty five hours of tuition plus fees at Salt Lake Community College is \$2,623. And one year of public school for grades K-12 in Utah schools costs between \$6000-\$8000. See Addendum E (Annual Costs of Juvenile Incarceration vs. Other Youth Investments; Tuition Rates).

CONCLUSION

Transferring youth to the adult criminal justice system and incarcerating them in adult jails and prisons is dangerous, ineffective, obsolete, inadequate, and wasteful. The adult system fails to account for or accommodate juveniles' unique needs; increases a juvenile's risks of suicide, rape, isolation, and recidivism; disproportionately impacts youth of color; and costs taxpayers vast sums of money that could be spent on alternative and more effective investments in youth. Based on the foregoing, Utah Juvenile Defender Attorneys, as *amicus curiae*, respectfully requests that this court reverse the juvenile court's bindover order.

DATED this 20th day of March, 2015.

A handwritten signature in black ink, appearing to read 'Monica Maio', written over a horizontal line.

Monica Maio

UTAH JUVENILE DEFENDER ATTORNEYS

Amicus Curiae on Behalf of Cooper Van Huizen

Letter From A Youth Held Pre-trial in an Adult Jail to the Local District Attorney

Mr. [REDACTED]

This may be unusual as I doubt you get many letters from inmates. However, I would greatly appreciate your consideration on the following.

Correct me if I'm wrong, but isn't the purpose of punishing someone not only about them paying for their actions, but also to rehabilitate them so they don't make the same mistake again. Shouldn't it be the goal of the state for convicted felons to be able to re-enter society as law-abiding citizens and lead productive lives. Therefore, is it in the best interest of every inmate to go to prison?

I understand that your in a tough situation and that your main responsibility is for the best interest of the community. However, if I truly am a reckless, dangerous person with no care for the law, then what difference would it make if I were to be released next week oposed to twenty years from now. I would still posses those same characteristics only with the education of a criminal who has been through the system.

I'm not in any way trying to degrade the situation. I do fully understand the seriousness of what happened that night. I thank God everyday that my dad and brother are alright. If they weren't, I don't think I could find the courage to live with myself.

If I were to be sent to prison, it would be difficult for me to mature into a "normal" adult. Still being in my teenage years I am still developing. I do not want to be influenced by the type of people

that reside in the [REDACTED].
Being separated from society, I would be at a disadvantage upon my release as I would not know the ways of a functioning adult in society. I would still be a teenager, just in an adult body with adult situations to be responsible for. On the other hand, let me propose the following:

- 12 months county jail
- 60 months justice sanctions electronic home monitoring
- 120 months stayed imposed sentence
- 120 months probation
- mandatory counseling
- mandatory drug and alcohol counseling
- mandatory anger management counseling
- mandatory full-time employment, full-time education or part-time employment and part-time education
- 500 hours community service

The above sentence would be adequate for many reasons. First of all, it is strict. With the combination of electronic monitoring and the regular drug and alcohol test, I would have no choice but to "stay-in-line." I would be able to receive therapy, drug and alcohol treatment, and anger management. Second, I am currently finishing my high school diploma while incarcerated at [REDACTED] jail. If I were to be transferred to a different correctional facility the chance of being able to have my credits transferred are slim. Therefore, I would have to

settle for a G.E.D. In the current job market it will be a huge asset to have my diploma opposed to a G.E.D. Third, time is limited before my younger brother and I go our own ways. I want to be able to be around before he goes off to college. To be a rolemodel and a positive influence in his life. These next few years are scarce and once they're gone they're gone. There's no way to replace them. Lastly, it will be a great opportunity to get back on the right track. I can promise you I won't need another chance. I decided the first few days I was here that I'm not going to be like one of these people that keep coming back time after time. This will be a perfect opportunity for me to learn and mature into a respectful law-abiding adult member of the community. Also, not to mention, I'm sure the community would have good use for the service hours.

I deeply regret my actions that night and the months leading up to it. Not just because now I'm in trouble, but mainly because I hurt many people I love. Not only my dad and brother but all of our friends and relatives. I feel ashamed that I let everyone down. Especially that I disappointed my father. I've never felt a greater sense of pleasure than when I make my parents proud. For example, on the baseball field. The feeling I have now is the exact opposite. I think that's the best way words can describe it.

Nothing can justify my actions that evening. I

was upset with the world and myself. I was disgusted with my addictions to substances and at the same time felt sorry for myself. I kept my feelings inside and "put on an act" to appear content when really I wasn't. Knowing what I know now, this whole situation could have easily been avoided and should have never happened. Within the last four months I've learned that it is absolutely imperative to share my feelings with others. I've also learned that substance abuse is not a stress reliever. I take full responsibility for what happened. It's nobody's fault but my own. I will revamp my entire life and outlook on the world. The counseling will be a substantial part of my transformation, as well as alternative stress relievers, such as exercise opposed to substances. The main way I will revamp my life is through pure will, determination and desire. I've a burning desire to change my behaviors. For my sake and for the sake of my families name.

There are two kinds of punishment, regressive and progressive. Regressive punishment, for example prison, would have many negative affects. It would diminish my self-esteem causing me to think poorly of myself and have a negative outlook on the world. Regressive punishment would not help me to learn anything but how to do time and be a criminal. Studies show that if a child grows up around parents that smoke they are much more likely to pick up the habit themselves than children whose parents don't smoke. That applies to other

behaviors as well. I think it would diminish my character if I were to grow into an adult while in the prison system. I would be exposed to obscene language, foul behavior, negative outlooks on the world and the knowledge of criminals. I don't want any of these factors to even subconsciously affect me in anyway, as I do not want to be like those people.

Progressive punishment, for example my proposed idea, would be very helpful. I would be drug and alcohol free for the first time in two years and ready to put a purpose in my life. I would be able to work on improving my life in all aspects, including my relationship with my family, my education, as I plan on going to college, my work ethics, my self-respect, and my relationship with my girlfriend.

I believe there is a difference between committing a crime and being a criminal. Majority of people in their lifetime commit a crime. The difference is those who learn from their mistakes and those who make the same ones over. I committed a crime, however I am not a criminal. I'll learn from my mistakes and lead a productive, successful, law-abiding life. Like a mentioned before I don't need another chance. Please note the 120 stayed imposed sentence. One misdeed and you can feel free to give me the whole 120 months, but I can promise you'll not have the opportunity.

A wise person once told me, "It is not our mistakes in life that define who we are, but rather how we recover from those mistakes." With that I would just like you

to know that I'm going to use this situation to make me a stronger person and a better person. Thank you for your time and consideration.

Two and one-half months after writing this letter, the youth committed suicide.

CERTIFICATE OF COMPLIANCE WITH RULE 24(J)

1. This brief complies with the type-volume limitation of Utah R. App. P. 24(f)(1) because it contains 5,592 words, excluding parts of the brief exempted by Utah R. App. P. 24(f)(1)(B).
2. This brief complies with the typeface requirements of Utah R. App. P. 27(b) because it has been prepared in proportionally spaced typeface using Microsoft Word, Garamond, 14.



UTAH JUVENILE DEFENDER ATTORNEYS

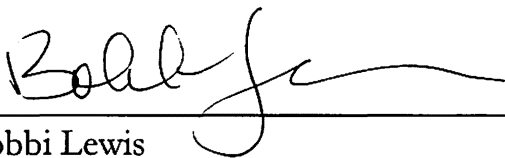
Amicus Curiae

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have caused to be hand-delivered an original and seven (7) copies, plus one digital courtesy copy per Utah Supreme Court Standing Order No. 8, of the foregoing instrument to the Utah Court of Appeals, 450 South State Street, 5th Floor, Salt Lake City, Utah, 84111; and that I have caused two (2) true and correct copies, plus one digital courtesy copy, of the foregoing instrument to be mailed, on this 20th day of March, 2015 to the following:

Sean P. Reyes
Utah Attorney General's Office
Criminal Appeals
Heber M. Wells Building
160 East 300 South, 6th Floor
Salt Lake City, Utah 84114

Elizabeth Hunt
Attorney for Defendant/Appellant Cooper Van Huizen
569 Browning Avenue
Salt Lake City, Utah 84105

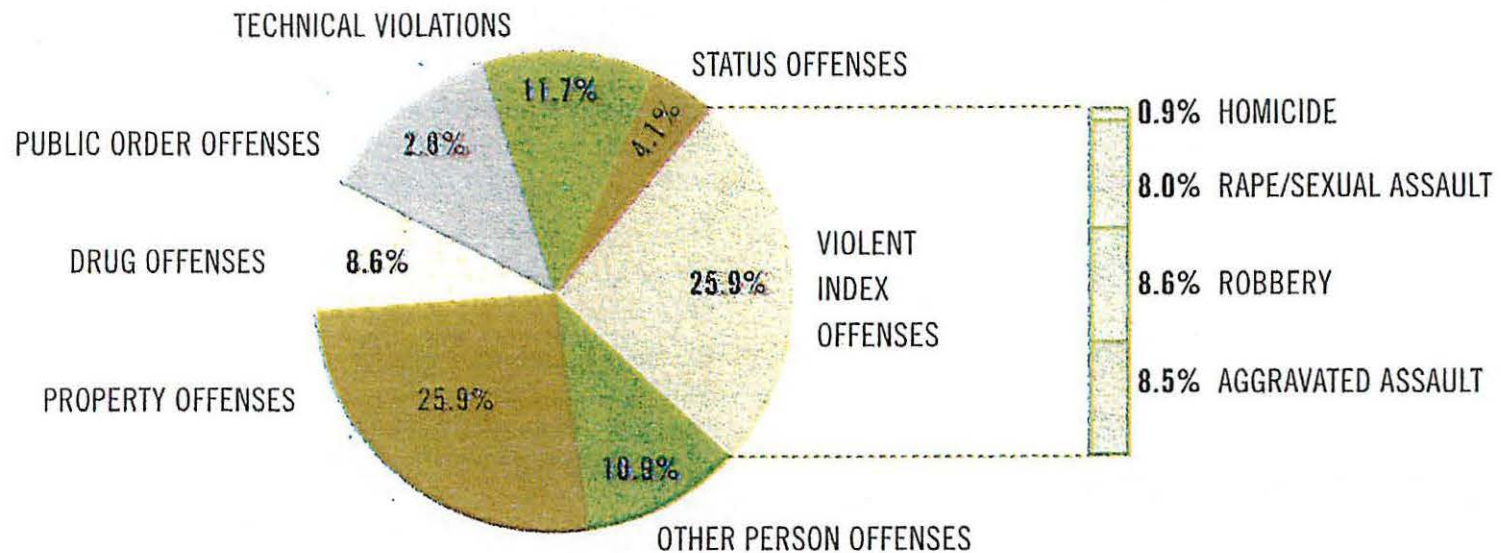


Bobbi Lewis

Tab A

FIGURE 5

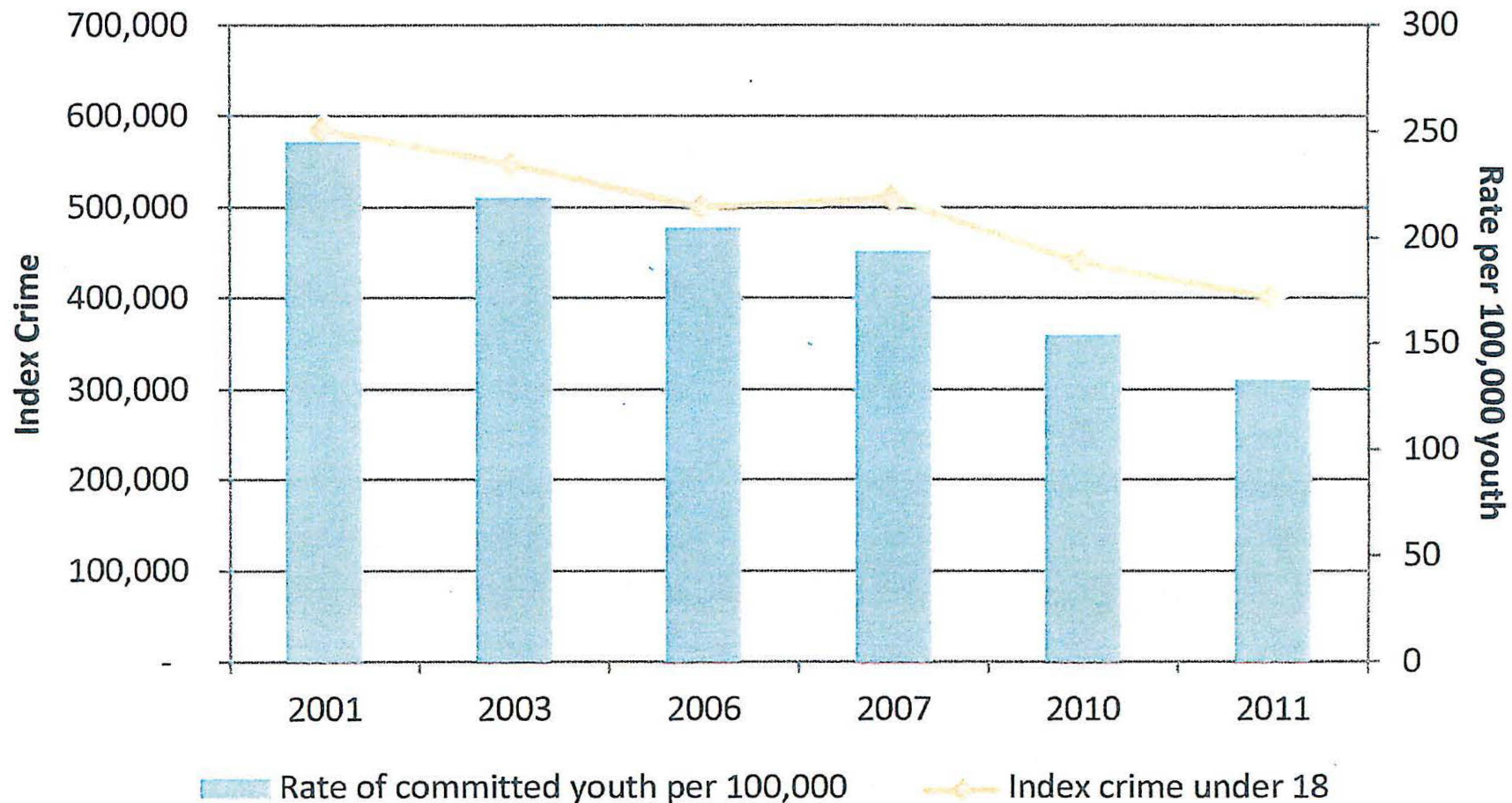
MOST SERIOUS OFFENSE OF ALL COMMITTED YOUTH IN THE U.S.: 2007



Source: Sickmund, et al. (2011). "Easy Access to the Census of Juveniles in Residential Placement."
Available at www.ojjdp.gov/ojstatbb/ezacjrp.

Tab B

The youth crime rate fell 31 percent between 2001 and 2011, while the rate of youth incarceration fell 46 percent.



Arrests source: Puzzanchera, C. and Kang, W. (2014). "Easy Access to FBI Arrest Statistics 1994-2011." Online. Available: www.ojjdp.gov/ojstatbb/ezaucr/. **Residential placement source:** Sickmund, M., Sladky, T.J., Kang, W., and Puzzanchera, C. (2013). "Easy Access to the Census of Juveniles in Residential Placement." Online. Available: <http://www.ojjdp.gov/ojstatbb/ezacjrp/> Note: Index crimes include arrests of youth under 18. Youth in residential placement include youth under 21.

Tab C

Right now, taxpayers spend hundreds of dollars a day—in some places, hundreds of thousands of dollars a year—to confine a young person. Because every state (and local) juvenile justice system is different, it is a challenge to come up with a consistent way to describe these direct costs from state to state. These costs also change over time.

To advance the understanding of the direct costs of confinement, JPI collected information from 47 states and jurisdictions in the summer and fall of 2014 on what they said they pay on a per-day or per-year basis to confine a young person in their most expensive confinement option. These 47 states or jurisdictions represent 94 percent of the population of the United States in 2013¹ and 87 percent of committed youth in secure placements in 2011.²

The information contained in the following table represents fiscal information provided directly from state juvenile corrections departments, agency annual reports, or legislative documents. When a state or juvenile correctional system provided more than one cost of confinement, the most expensive one is listed, reflecting the reality that it can cost hundreds of dollars a day, and hundreds of thousands of dollars a year, to incarcerate a single youth. When available, costs of other types of placements, which range from large, secure facilities to smaller group homes are included in the endnotes, along with details about each cost figure in the endnotes. To account for varying lengths of stay across different jurisdictions and recent research that indicates that longer stays in secure confinement do not reduce recidivism,³ JPI calculated the estimated cost of placing a young person out of his or her home for three months, six months,

and a full year.⁴ These estimates—per day, 90 days (three months), 180 days (six months), and a year (365 days)—vary to reflect the growing consensus from research and operations of juvenile justice systems that acknowledges that in the rare instances where secure care is appropriate, confinement should be for the shortest period of time possible to reduce harm to the youth and save money.

For these 47 states or jurisdictions that reported to JPI, the average costs of the most expensive confinement option for a young person out of his or her home are \$401 per day, \$36,074 per three months, \$72,149 per six months, and \$146,302 per year. Thirty-four states and jurisdictions reported spending \$100,000 or more on the most expensive confinement option for a young person.

The reasons states incur different per diem and annual costs vary, and they reflect various opportunities, challenges, and choices in how juvenile justice systems are designed. The reasons for these varied costs include the availability of treatment and rehabilitation services, privatization or lack of unions, and the extent to which every bed in a facility is used.

Depending on the state and the kind of facility or placement, a number of different funding streams may pay for these placements. Per-day or per-year expenditures can include a mixture of county dollars, state dollars, and federal dollars—something that is different from state to state.

Regardless of how the costs of confinement are shared, taxpayers pay these direct costs.

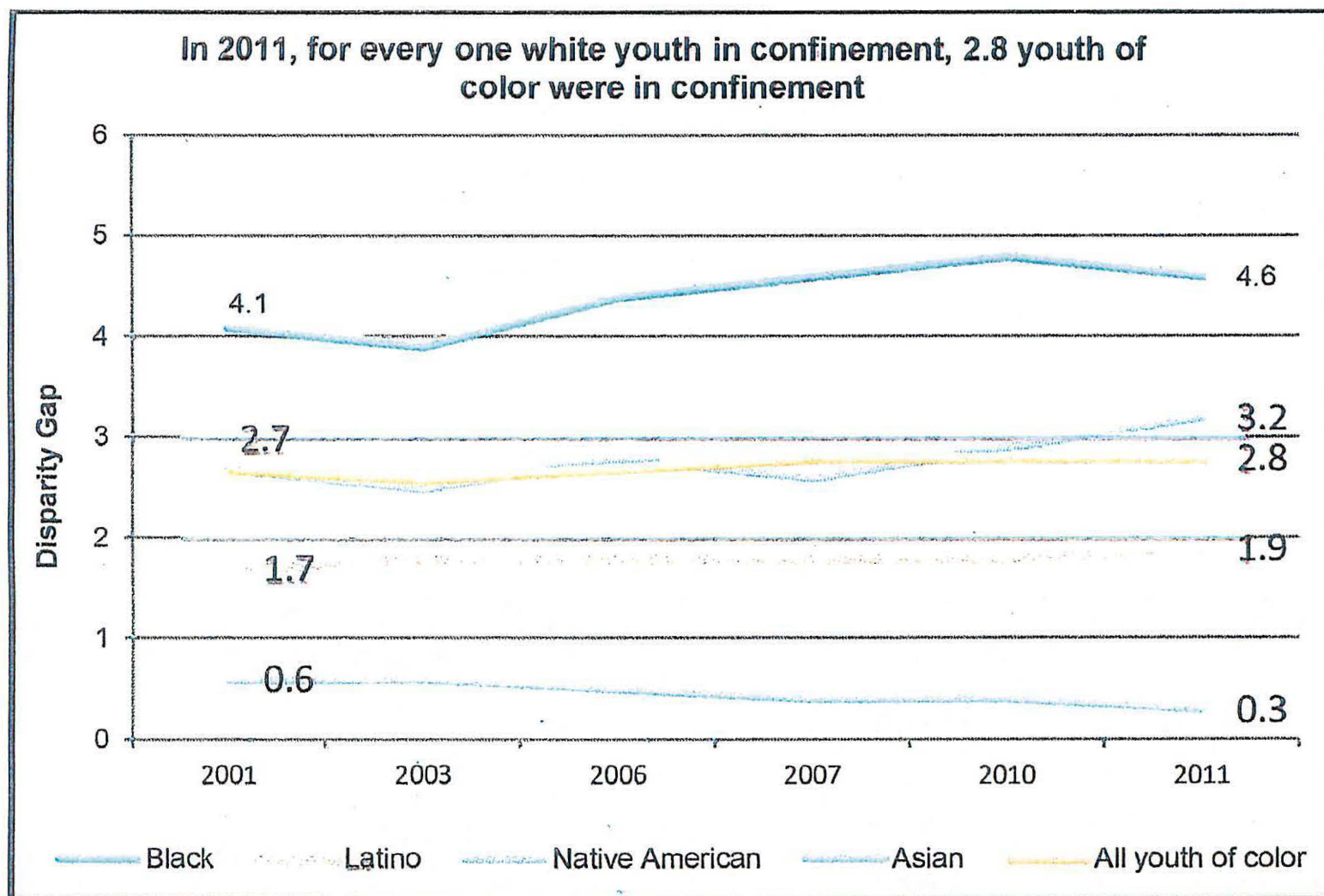
Citations are available at www.justicepolicy.org or by emailing info@justicepolicy.org

Costs of confinement: Forty-seven states and jurisdictions reporting

State	Per day	Per 3 months	Per 6 months	Per year
Louisiana ⁵	\$127.84	\$11,506	\$23,011	\$46,662
Florida ⁶	\$151.80	\$13,662	\$27,324	\$55,407
Alabama ⁷	\$159.00	\$14,310	\$28,620	\$58,035
South Dakota ⁸	\$207.43	\$18,669	\$37,337	\$75,712
Indiana ⁹	\$212.13	\$19,092	\$38,183	\$77,427
Idaho ¹⁰	\$213.57	\$19,221	\$38,443	\$77,953
Utah ¹¹	\$214.12	\$19,271	\$38,542	\$78,154
Missouri ¹²	\$244.30	\$21,987	\$43,974	\$89,170
Georgia ¹³	\$249.66	\$22,469	\$44,939	\$91,126
Kansas ¹⁴	\$250.50	\$22,545	\$45,090	\$91,433
Wyoming ¹⁵	\$261.00	\$23,490	\$46,980	\$95,265
Washington ¹⁶	\$262.48	\$23,623	\$47,246	\$95,805
Oregon ¹⁷	\$263.00	\$23,670	\$47,340	\$95,995
Kentucky ¹⁸	\$276.00	\$24,840	\$49,680	\$100,740
Minnesota ¹⁹	\$287.23	\$25,851	\$51,701	\$104,839
Colorado ²⁰	\$287.63	\$25,887	\$51,773	\$104,985
Arizona ²¹	\$290.68	\$26,161	\$52,322	\$106,098
Wisconsin ²²	\$291.00	\$26,190	\$52,380	\$106,215
Tennessee ²³	\$301.29	\$27,116	\$54,232	\$109,971
Illinois ²⁴	\$304.11	\$27,370	\$54,740	\$111,000
Arkansas ²⁵	\$317.08	\$28,537	\$57,074	\$115,734
North Dakota ²⁶	\$342.58	\$30,832	\$61,664	\$125,042
Nebraska ²⁷	\$347.55	\$31,280	\$62,559	\$126,856
Nevada ²⁸	\$356.44	\$32,080	\$64,159	\$130,101
West Virginia ²⁹	\$387.58	\$34,882	\$69,764	\$141,467
Delaware ³⁰	\$393.85	\$35,447	\$70,893	\$143,755
Virginia ³¹	\$413.63	\$37,226	\$74,453	\$150,974
Mississippi ³²	\$420.00	\$37,800	\$75,600	\$153,300
South Carolina ³³	\$426.00	\$38,340	\$76,680	\$155,490
Texas ³⁴	\$437.11	\$39,340	\$78,680	\$159,545
North Carolina ³⁵	\$437.67	\$39,390	\$78,781	\$159,750
Massachusetts ³⁶	\$473.49	\$42,614	\$85,228	\$172,824
Michigan ³⁷	\$475.22	\$42,770	\$85,540	\$173,455
Montana ³⁸	\$481.67	\$43,350	\$86,701	\$175,810
New Mexico ³⁹	\$487.87	\$43,908	\$87,817	\$178,073
Rhode Island ⁴⁰	\$510.63	\$45,957	\$91,913	\$186,380
New Jersey ⁴¹	\$537.35	\$48,362	\$96,723	\$196,133
Hawaii ⁴²	\$546.08	\$49,147	\$98,294	\$199,319
Ohio ⁴³	\$554.80	\$49,932	\$99,864	\$202,502
New Hampshire ⁴⁴	\$588.00	\$52,920	\$105,840	\$214,620
Connecticut ⁴⁵	\$607.41	\$54,667	\$109,334	\$221,705
Vermont ⁴⁶	\$615.00	\$55,350	\$110,700	\$224,475
Maine ⁴⁷	\$616.33	\$55,470	\$110,939	\$224,960
California ⁴⁸	\$674.55	\$60,709	\$121,419	\$246,210
District of Columbia ⁴⁹	\$761.00	\$68,490	\$136,980	\$277,765
Maryland ⁵⁰	\$809.00	\$72,810	\$145,620	\$295,285
New York ⁵¹	\$966.20	\$86,958	\$173,916	\$352,663
Average	\$401.00	\$36,074	\$72,149	\$146,302

Note: States reported per-day or annual costs. Three-month and six-month calculations are estimated by multiplying per-day costs by 90 and 180 days or dividing the annual costs by these units. The costs reflect the highest cost confinement option provided to the researchers by states in the summer and fall of 2014, and each endnote in the full report lists other cost options that were provided to researchers as part of the request. This chart will be updated to reflect new information and posted at www.justicepolicy.org.

Tab D



Note: This graph shows the gap between white youth and youth of color. White youth are confined at a ratio of one to one and do not appear on this graph.

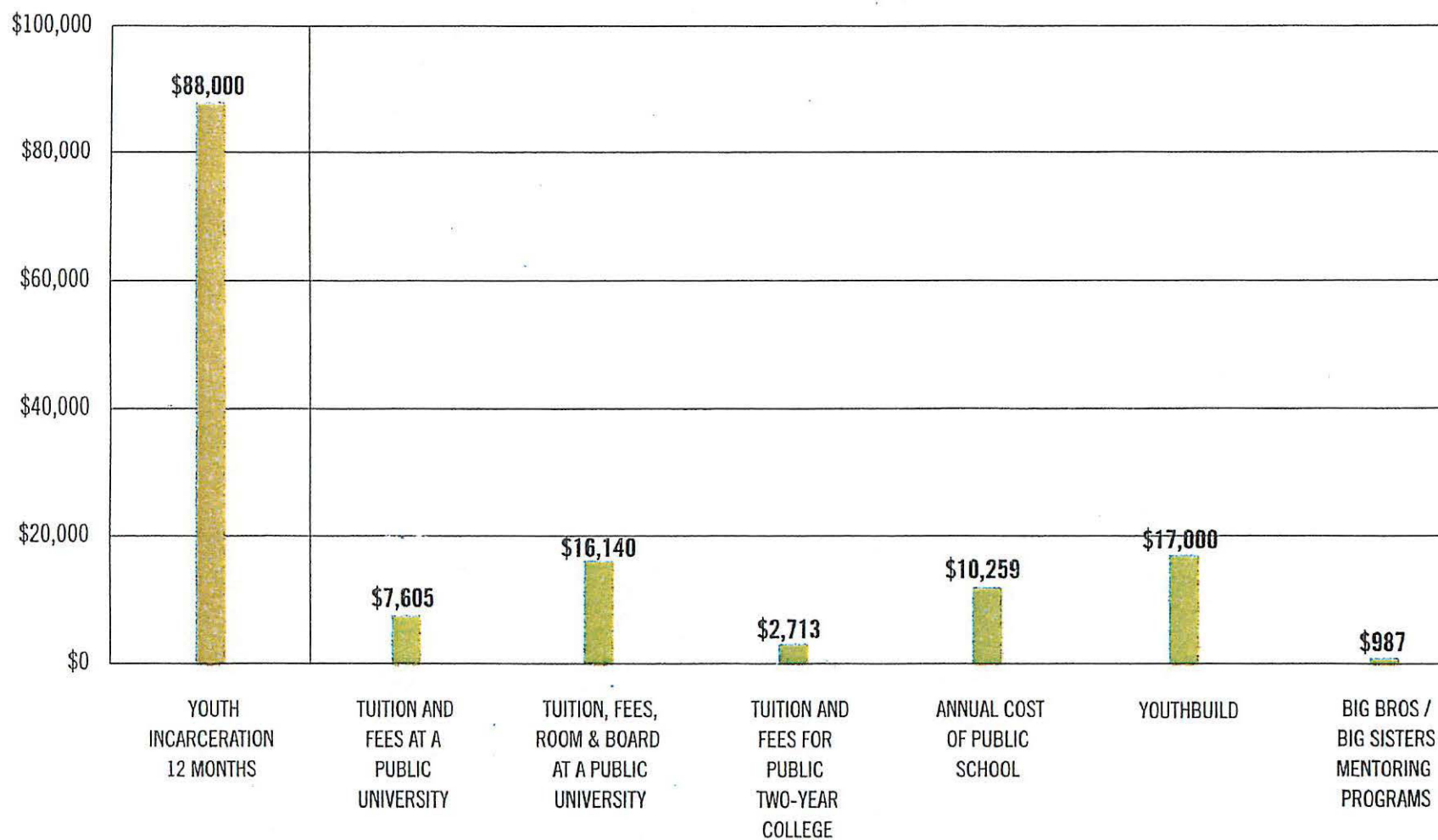
Source: The W. Haywood Burns Institute, "Unbalanced Juvenile Justice, Disparity Gap Incarceration Rate, Youth of Color vs. White," accessed September 5, 2014

<http://data.burnsinstitute.org/#comparison=3&placement=3&aces=1,2,3,4,5,6&offenses=5,2,8,1,9,11,10&year=2011&view=graph>

Tab E

FIGURE 7

ANNUAL COST OF JUVENILE INCARCERATION VERSUS OTHER YOUTH INVESTMENTS



Sources: American Correctional Association (for costs of youth incarceration); College Board (for costs at public universities and public two-year colleges), U.S. Census Bureau (for costs of public education), Cohen and Piquero (2008) (for costs of YouthBuild), and Public Private Ventures (for costs of Big Brothers Big Sisters program).

For more information, visit www.aecf.org/noplaceforkids.

[Home](#) > [Cost](#) >

Cost

Your college education is one of the best investments you'll ever make—but it doesn't have to be the biggest. A degree at the U is a phenomenal value. In a recent survey of nearly 700 institutions by [Payscale.com](#), the University of Utah ranked 72nd in value for getting the best payback for your tuition dollar at a public university, both in-state and out-of-state.

You probably already knew that full-time status at a university only requires 12 credits (roughly 4 classes) per semester? But did you know that by adding one class per semester or studying during summer break, you can shorten your college education by one whole year and save significantly on tuition? A 30 credit per year schedule encourages high productivity and helps you progress through your college plan more quickly. At the U, our new [Plan to Finish](#) campaign will help you graduate sooner, start your dream career, and save money too. [Learn more here >](#)

Typical Undergraduate Budgets 2014-2015

Below is an estimated Cost of Attendance for an Undergraduate student attending fall and spring semesters, with a course load of **15 credit hours** per semester, for a total of **30 credit hours** per school year. Use this information to **estimate** what your costs will be.

Academic Year 2014-15	Living On Campus	Living Off Campus	Living With Parent(s)
Room and Board	10,566**	10,782	3,060
Books and Supplies	1,006	1,006	1,006
Miscellaneous \$	2,448	2,448	2,448
Transportation	1,126	1,126	1,126
Tuition and Fees	Resident: 7,876 Non-Resident: 25,208	Resident: 7,876 Non-Resident: 25,208	Resident: 7,876 Non-Resident: 25,208
Total Budget	Resident: \$23,114 Non-Resident: \$40,446*	Resident: \$23,330 Non-Resident: \$40,662*	Resident: \$15,608 Non-Resident: \$32,940*

*All costs are subject to change without notice and are expected to increase annually. *Non-Resident total includes an additional estimated average travel component of \$360 per semester. Resident and Non-Resident totals include an average estimated loan fee cost of \$39 per semester. Loan fees will vary. \$ Miscellaneous costs include things like medical expenses, clothing, haircuts, telephone and other utilities, etc. ** The housing rate is based on the reported costs for all undergraduates living on campus. Housing costs for freshmen will likely be lower, however estimated costs vary based on room type and meal plan selection.*

While the U.S. Census Bureau tells us the average salary for a college graduate is almost \$20,000 per year higher than the salary of a high school graduate (that equates to \$900,000 over a career), you can rest easy knowing you won't be spending that career paying off your education.

In addition to being a great value, the U has many resources to help you pay for your education. When you apply by the December 1 priority deadline and **fill out your application completely**, you will automatically be considered for Merit scholarships. From scholarship money, to on-campus employment, to tuition payment plans, our goal is to help you get a solid education without breaking the bank!

Additional Resources

- [Financial Aid and Scholarships](#)
- [Personal Money Management Center](#)
- [Income Accounting / Tuition & Fees](#)
- [Housing](#)
- [Cost Calculator](#)
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- [Financial Need and Other Scholarships](#)
- [Scholarships available to students who qualify for HB144, DACA, and who are non-FAFSA eligible](#)

Financial Aid Checklist »

- [Find tips on filling out the FAFSA for federal financial aid.](#)

Coming from outside of Utah?

Here are some additional resources that may help reduce your overall costs:

- [Residency](#)
- [Western Undergraduate Exchange \(WUE\)](#)
- [Alumni Tradition Award/Heritage Scholarship](#)


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[Tuition Payment Options](#)

2014-2015 SLCC Tuition and Fees

2015-2016 Tuition and Fees will be available in April.

This Tuition & Fee schedule is for the 2014-2015 academic year and applies to all students taking credit classes.

Credit Hours	<u>Resident</u>	<u>Non - Resident</u>	<u>Apprenticeship by class)</u>
1	\$ 184	\$ 490	\$ 97
2	\$ 328	\$ 949	\$ 161
3	\$ 472	\$ 1,408	\$ 225
4	\$ 616	\$ 1,867	\$ 289
5	\$ 760	\$ 2,326	\$ 353
6	\$ 904	\$ 2,785	\$ 417
7	\$ 1,048	\$ 3,244	\$ 481
8	\$ 1,192	\$ 3,703	\$ 545
9	\$ 1,336	\$ 4,162	\$ 609
10	\$ 1,480	\$ 4,621	\$ 673
11	\$ 1,607	\$ 5,063	\$ 737
12 - 18	\$ 1,734	\$ 5,505	\$ 801
19	\$ 1,861	\$ 5,947	\$ 865
20	\$ 1,988	\$ 6,389	\$ 929
21*	\$ 2,115	\$ 6,831	\$ 993
22*	\$ 2,242	\$ 7,273	\$ 1,057
23*	\$ 2,369	\$ 7,715	\$ 1,121
24*	\$ 2,496	\$ 8,157	\$ 1,185
25*	\$ 2,623	\$ 8,599	\$ 1,249

* Approval for more than 20 credit hours must be obtained from the appropriate division chairperson.

Resident and Non-Resident students use the Resident tuition and fee schedule for the Summer Terms.

Non-credit and special class tuition and fees are listed in the semester class schedule.

[Tuition & Fees Separated \(PDF\)](#)

Notes:

Late Payments

A \$50.00 late payment fee will be charged to all student accounts with unpaid tuition and fees.

International Students

International students are assessed an additional \$40.00 administrative fee per semester.

House Bill 248

Full-time students at Salt Lake Community College paying a semester tuition and fee amount of \$1,734 contribute an estimated 42% to the full cost of instruction per full-time

CONTACT SLCC

Main SLCC Campus:

[Taylorsville Redwood Campus](#)
4600 South Redwood Road
Salt Lake City, UT 84123

Cashiering Mailing Address

Salt Lake Community College
Attention: Cashier Services
PO Box 30808
Salt Lake City, UT 84130

Phone: 801-957-4073

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[Campus Locations and Maps](#)

OTHER TUITION & FEES

[Wiche-Wue \(PDF\)](#)

[Applied Technology](#)

student of \$4,092. The remaining support for the full cost of instruction is provided by \$2,358 state tax funds and \$0 other institutional sources

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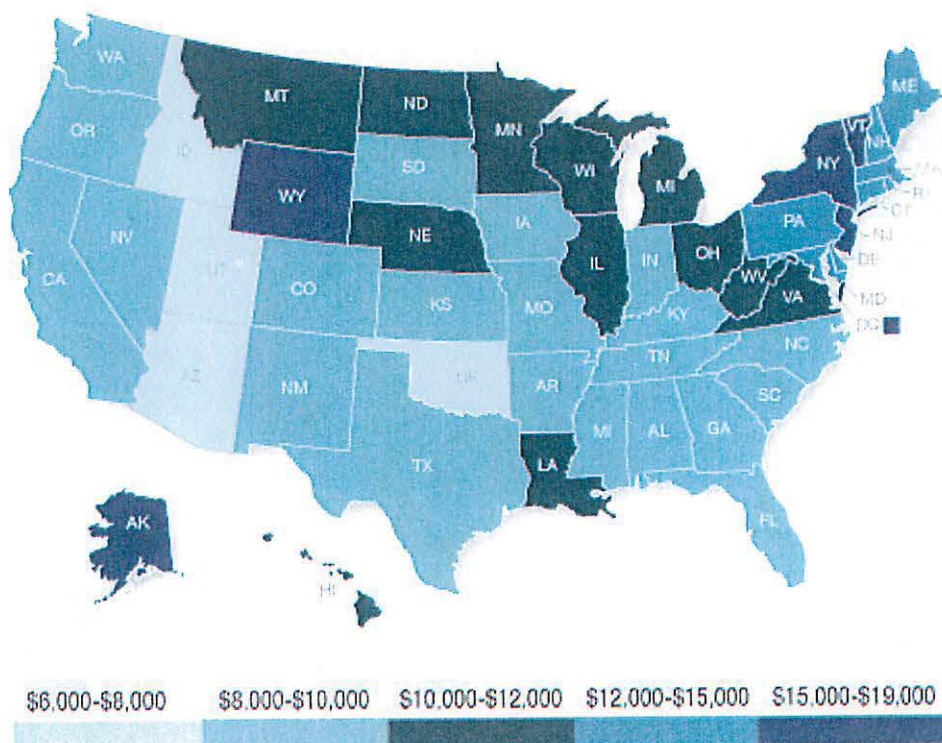
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How Much Does The Government Spend To Send A Kid To Public School?

JUNE 21, 2012 3:46 PM ET

LAM THUY VO

Spending Per Student (2010)



Notes

Figures are for current spending on students in elementary and secondary school.

Source: Census Bureau

Credit: Lam Thuy Vo / NPR

On average, it costs \$10,615 to send a kid to public school for a year. (That's federal, state and local government spending combined.)

As the map above shows, that one number masks a huge variation. Utah spends just over \$6,000 per student; New York and the District of Columbia over \$18,000.

There's even more variation when you get to the district level. Detailed figures and lots more data (including district-level spending) are available in a report the Census Bureau released today.

education

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Study: Incarcerating youths in adult prisons leads to abuse, higher costs

By [Chris Togneri](#)

Wednesday, July 29, 2009



A new study criticizes Pennsylvania for its treatment of juveniles charged with serious crimes.

Prosecuting juveniles in adult courts increases the odds of their abuse in jail or prison, and incarcerating them in adult prisons is more expensive than keeping young offenders in the juvenile system, according to a report released Tuesday by the LBJ School of Public Affairs at the University of Texas at Austin.

The research examining more than two decades of juvenile prosecutions in adult courts suggests youths held in adult jails and prisons are five times more likely to be sexually or physically abused than adults, and 36 times more likely to commit suicide, said Michele Deitch, an adjunct professor at the university. It costs an average \$100,000 per year to house a juvenile in an adult facility, but about \$43,000 to house them in a juvenile facility, the report states.

Pennsylvania stood out in part because juveniles charged with criminal homicide start their cases in adult court. Killers convicted of first- and second-degree murder serve mandatory life sentences without parole, Deitch said. Pennsylvania legislators pushed through a series of "get tough on crime" laws in the 1990s, said Al Blumstein, a Carnegie Mellon University criminology professor who served as a member of the Pennsylvania Commission on Sentencing for a dozen years until 1996.

"The public was concerned about crime and pounded on the Legislature, saying, 'Do something,'" Blumstein said. "So they passed tougher sentences, mandatory minimums; they expanded sentences and the population that falls into that realm. That was a politically satisfying approach."

Pennsylvania has more juveniles sentenced to life in prison than any other state. According to an unrelated 2008 study published by the University of San Francisco's Center for Law and Global Justice, nearly one-fifth of the nation's 2,381 juvenile lifers were sentenced in Pennsylvania.

The University of Texas study cites the high-profile case of Jordan Brown, 11, of Lawrence County as an example. Brown is charged with two counts of criminal homicide for the Feb. 20 slayings of his father's girlfriend, Kenzie Marie Houk, 26, and her unborn son. If convicted of murder, he could become the youngest person in U.S. history to be sentenced to life in prison without parole, Deitch said.

Lawrence County District Attorney John Bongivengo said he will fight any effort to move the case to juvenile court.

"Even though he's only 11, it's probably one of the more cold-blooded cases you'll see," Bongivengo said. "That raises a huge red flag in my mind."

But he said he wants state sentencing regulations to be changed to allow for more middle ground. A murder conviction would put Brown behind bars for the rest of his life in prison, Bongivengo said. But if the case moves to juvenile court, Brown could be free in as few as four years.

"I just wish I had more options," Bongivengo said.

Brown's lawyers, Dennis Elisco and David Acker, said juveniles should not be tried as adults. The human brain is not fully developed until age 25, Elisco said.

Brown will undergo a psychological evaluation Friday. When the results are available, Elisco and Acker will begin efforts to move the case to juvenile court.

Among other findings in the study:

- In Pennsylvania, youths transferred to adult court and later released are 77 percent more likely to be rearrested, compared to those who remained in the juvenile system.
- On a single day in 2008, more than 7,700 children under age 18 were being held in adult jails and 3,650 were being held in adult state prisons.

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[Juvdefend] Op-Ed: Don't Put Kids in Adult Prisons

Juvdefend [juvdefend-bounces@lists.njdclists.info] on behalf of NJDC Lists [lists@njdc.info]

Sent: Friday, March 13, 2015 11:02 AM

To: juvdefend@njdclists.info

Attachments: ATT00001.txt (304 B)

This Op-Ed from yesterday's Miami Herald was written by the Miami-Dade Public Defender Carlos Martinez, and addresses Florida's problematic direct file laws and resulting practices.

The Miami Herald

3/12/2015

Public Defender: Don't put kids in adult prisons

BY CARLOS J. MARTINEZ

More than 20 years ago, during a wave of highly publicized tourist murders, Florida enacted laws giving prosecutors the power to remove children from juvenile court and send them to adult court without a court hearing.

These "direct file" laws turn a teenager into an adult without judicial consideration of that child's intellectual, moral or cognitive capacity, or the child's amenability to treatment and rehabilitation. Before direct file, a child could be tried as an adult, but only after a judicial hearing or indictment by a grand jury.

Floridians were sold on the idea that getting tough on juvenile offenders would make everyone safer and deter young offenders from committing crime. However, there has not been a single study that shows that direct filing reduces crime. To the contrary, numerous studies conclude that direct-filed youth re-offend sooner and more violently than their similarly matched counterparts who remain in the juvenile system.

Children do not have the same decision-making abilities as adults. Children, particularly teens, are wired for impulsiveness, thrill seeking and peer approval. They biologically have less executive function because their frontal lobe, the brain's planning region, is not mature. That's why we have laws restricting children from entering into contracts, from voting and even smoking. But children's innate lack of formation means they have an increased capacity to change and reform.

Yet, Florida ignores that reality.

One key issue is, Where will we place our developing teens — in a prison environment with hardened adults or in a secure juvenile facility with education, services and appropriate adult role models? And, who should make that decision — impartial judges or prosecutors?

In arguing against changing direct-file laws, prosecutors point to a drop in direct files. This drop corresponds to reductions in overall crime. Even the 35 states that do not direct file are experiencing record lows of juvenile and adult crime. Prosecutors also say that they only transfer the worst of the worst. But studies show 60 percent were direct filed for nonviolent offenses, and there is disparate treatment of children and high rates of incarceration in some parts of the state.

In some Florida counties, the prosecutors use the threat or possibility of transfer to adult court to force children into juvenile commitment programs. To avoid the transfer, the children are forced to decide on plea bargains in juvenile court without having access to the evidence (discovery), without the names of witnesses, with no opportunity to question the witnesses, no testing of the evidence (e.g., fingerprints, DNA), no opportunity to challenge any possible constitutional violations and without a trial.

Judges do not decide the child's sentence, prosecutors do. Unlike all other juvenile cases, the prosecutor and not the Department of Juvenile Justice determine the most appropriate placement for that particular child. In essence, the child has to give up every constitutional and statutory right to avoid adult court.

The children who want their day in court are filed into adult court where they face terms in prison, where sexual and other abuse can occur. Apparently, a child is not the "worst" as long as the child pleads guilty immediately and gives up all due-process rights.

Unchecked government power over our children undermine basic American values — due process of law, equal justice under law and checks and balances on government power. The level of due process a child receives should not depend on where that child lives. The prosecutor's unchecked power makes a mockery of the adversarial system, and exacerbates distrust and disdain for our justice system.

We can do better this year. Several bills have been filed to reform Florida's "direct file" system. Join me in urging the Legislature to place a minimum age for children who can be indicted, eliminate or curtail direct files and instead require judicial hearings, prohibit children with mental illness or developmental disabilities to be charged as adults, establish more uniformity throughout state and house all children in juvenile detention centers before trial and not in adult

jails. Additional information is available at www.noplaceforachild.com.

CARLOS J. MARTINEZ IS THE MIAMI-DADE COUNTY PUBLIC DEFENDER.

<http://www.miamiherald.com/opinion/op-ed/article13575173.html>



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The Opinion Pages | EDITORIAL

Kids and Jails, a Bad Combination

By THE EDITORIAL BOARD DEC. 28, 2014

There are few bright spots in America's four-decade-long incarceration boom, but one enduring success — amid all the wasted money and ruined lives — has been the Juvenile Justice and Delinquency Prevention Act, the landmark law passed by Congress in 1974.

The essence of the act is a set of protections for young people caught up in a criminal justice system built for grown-ups. In the past, juvenile offenders were routinely locked up with adults, exposing them to physical and sexual abuse and making them more likely to break the law again when they got out. The act, built on an awareness that young people are different, offers federal dollars to states that house juvenile inmates in their own facilities or, where that is not possible, keep them strictly separated from the adults. It also bars the counterproductive practice of throwing children in jail for "status offenses" like skipping school, running away or violating a curfew — behavior for which no adult would be punished.

The results speak for themselves. Even as the nation's prison population has skyrocketed eightfold since 1970, to 2.4 million, the number of juveniles involved in the justice system has dropped by 30 percent since 2002.

Some judges, however, still put far too many kids behind bars by relying on an exception to the status offense rule that allows them to lock up juveniles who have been warned not to reoffend. In 2011, about 8,800 juveniles were detained for status offenses. This continues even though the evidence is clear that young people are less likely to commit future crimes if earlier interventions are based in their communities.

Now the law may be getting a long-overdue upgrade to address these and other issues. On Dec. 11, Senators Charles Grassley, Republican of Iowa, and

Sheldon Whitehouse, Democrat of Rhode Island, introduced a bill to reauthorize the act for the first time in more than a decade.

The reauthorization would phase out the status-offense exception, increase educational opportunities in detention and help states reduce persistent racial disparities in juvenile incarceration. Young African-Americans are still more than four times as likely as young whites to be put behind bars, even though they offend at similar rates.

The bill's sponsorship is significant: Mr. Grassley, who will become chairman of the Senate Judiciary Committee in January, has long been one of the most outspoken foes of efforts to reform unjust sentencing laws and combat the worst excesses of overincarceration. His willingness to step out on this issue is one mark of how successful the law has been — not only at improving the lives of millions of young Americans, but at shaping broader public attitudes about how best to deal with young offenders.

In a survey released in November by the Pew Charitable Trusts, the vast majority of respondents said they would rather see young people in trouble get treatment, counseling and supervision than be jailed. More than eight in 10 said juveniles should never be incarcerated for skipping school or running away.

While prospects for broader sentencing reform are uncertain, Mr. Grassley has shown that he understands the importance of a smarter and less punitive juvenile justice system. He should make it a priority in 2015.

Meet The New York Times's Editorial Board »

A version of this editorial appears in print on December 29, 2014, on page A18 of the New York edition with the headline: Kids and Jails, a Bad Combination.