An Unfair System: Finding Alternatives for Youth Incarceration

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Executive Summary

“When we lock up a child, not only are we wasting millions of taxpayer dollars, we’re setting him or her up for failure in the long run. The system as it exists now is unfair to everyone involved and needs to be changed.” – Senator Christopher Murphy (D-CT)

According to the Prison Policy Initiative, 48,000 youth in the United States are confined in facilities away from home as a result of juvenile justice or criminal justice involvement on any given day. It is not until the age of 25 that young people fully develop their frontal lobe, yet young people are being placed in stressful environments where they often leave worse than when they arrived. For example, in a Harvard article, a teenager put in solitary confinement had profound neurological and psychological damage, causing depression, hallucinations, panic attacks, cognitive deficits, obsessive thinking, paranoia, anxiety, and anger (Dimon). A national taskforce is needed to find alternatives to youth incarceration. The goals of the task force are to understand what the juvenile justice system is doing well, identify the gaps and barriers that limit the system from achieving the best public safety and youth outcomes, and outline a roadmap of concrete recommendations to overcome these gaps and barriers going forward.

Problem Statement

In 2007, about 60,500 youth in the United States were confined in correctional facilities or other residential programs each night (Mendel). The United States of America has a higher youth incarceration rate than any other country in the world. Incarcerated youth are separated from their families and support systems, exposed to more crime, suffer from deteriorating mental and physical health, and are denied their
education. Young people are still developing and should be given opportunities for treatment, rehabilitation, and positive reinforcement.

Between 2003 and 2013, the rate of youth committed to juvenile facilities fell by 47% (Rovner, Joshua, and Marc Mauer) In the same ten years, the racial disparities in juvenile justice systems increased. Youth of color remain far more likely to be committed than white youth. The racial gap between Black and white youth in the juvenile justice system in those ten years increased by 15%. In 2013, black juveniles were more than four times as likely to be committed as white juveniles. Slightly more than 16% of American youth are Black, but in this ten-year frame, they composed roughly 40% of the juvenile justice system (Rovner, Joshua, and Marc Mauer). While white youth only made about 30% of the juvenile justice system even though 56% of youth in America are white (Rovner, Joshua, and Marc Mauer). If the numbers were proportional, there should only be 11.4% of Black youth in the juvenile justice system. That makes Black youth at least four times more likely to be in jail than white youth.

The Juvenile Justice and Delinquency Act (JJDPA) is a federal law providing formula grants to states that follow a series of federal protections on the care and treatment of youth in the juvenile justice and criminal justice systems. Through the JJDPA, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) requires that states gather race and ethnicity information at nine different juvenile justice contact points. It also requires states to submit a report delineating how they are addressing disproportionate minority contact through the identification of racial disparities assessment of factors contributing to racial disproportionality, implementation, and evaluation of the efficacy of interventions to reduce racial disparities, and monitoring of changes in racial disparity trends over time. However, there are no specific requirements about what types of interventions must be put in place to decrease racial disparities in the juvenile justice system.

There was a 2014 report by OJJDP showing that nine jurisdictions were successful in achieving a reduction of disproportionate minority contact at different juvenile justice stages for Black youth, Latinx youth, and Native American youth. They interviewed stakeholders to learn about strategies used to attain these outcomes and noted that common efforts included focusing on data, increasing collaboration with other
agencies and community organizations, changing institutional culture, affiliating with national juvenile justice reform initiatives, creating alternatives to formal system involvement, concentrating on disproportionate minority contact reduction, making use of leadership at the local and state level, and making disproportionate minority contact reduction a long-term priority.

Being incarcerated forces youth to be away from their support system. Poor social support is linked to depression. Being alone has shown to increase the risk of depression, suicide, alcohol use, and altered brain function. Many youth who are incarcerated are unable to have regular contact with the family. 39% of corrections and juvenile boot camp youth have family contact less than once a week (Sedlack, A., and McPherson, K.). A third of youth do not have any in-person visits because of the distance of the facilities from their homes (Sedlack, A., and McPherson, K). The goal of a support system is to reduce stress. When youth are separated from their family and support system, they feel more alone. Not having your support system can lead to anxiety, depression, or other moderate to severe mental health conditions.

Many juvenile corrections facilities are not prepared to provide effective treatment for youth with severe mental health conditions, learning disabilities, or other acute needs. If young people do not receive adequate mental health supports or treatments, they can suffer from many issues like suicide or recidivism. According to a study at Walden University, aggression, antisocial behavior, impulsivity, and delinquency are often found in children or adolescents who have learning disorders and may lead to their incarceration. In the same study, 34 students with learning disabilities were two to three times more likely to be engaged in offending behaviors than their classmates without learning disabilities, more at risk of recidivism, and more at risk of being arrested while at school (Mallett and Kirven).

Three out of every ten youth confined have at least attempted suicide once and about three-fourths has said they saw someone seriously injured or killed. Enduring this type of trauma and many others has led to at least two-thirds of youth in facilities to have one or more mental health conditions, but not all of them are receiving any type of mental health counseling for it. Conditions in juvenile justice systems do not actually provide rehabilitation, but instead, provide more trauma and hardship. These facilities
do not support positive outcomes for our youth. This can lead to many negative outcomes, one of which is recidivism. There have been high rates of recidivism from studies that are tracking youth releases. A 2015 study from the CSG Justice Center shows that juveniles were far more likely than adults to re-offend after release across all states. A report of youth recidivism rate for only the thirty-nine states that track juvenile recidivism shows that the re-arrest rates within two to three years range from seventy to eighty percent (The Council of State Governments Justice Center, Reducing Recidivism and Improving Other Outcomes for Young Adults in the Juvenile and Adult Criminal Justice Systems). Another effect of youth incarceration is the school to prison pipeline. An MIT study shows that youth that went into juvenile detention were unlikely to return to school at all. This study showed the long-term outcomes of tens of thousands of teenagers in Illinois. It concluded that juvenile incarceration lowers high school graduation rates by 13 percentage points and increases adult incarceration by 23 percentage points (Dizikes). A study at Brown University looked at cases involving 35,000 juvenile offenders over a 10-year period in Chicago. The teenagers in question had all committed offenses provided presiding judges with latitude in determining sentencing levels. Some judges are more likely to have youth placed in juvenile detention than others, but it is effectively which judge you get. Some youth get a judge who will place them in juvenile detention, other ones get a judge who will be less likely to do so. The researchers compared the outcomes of the youth across the judges and it concluded that youth that were incarcerated were less likely to return to school. The lack of a high school diploma severely limits the types of jobs youth can obtain, which can lead them back to the prison cycle.

State juvenile corrections systems in the United States confine youth in many types of facilities, including group homes, residential treatment centers, boot camps, wilderness programs, or county-run youth facilities. About forty percent of the total are held in locked long-term youth correctional facilities operated primarily by state governments or by private firms under contract to states (Mendel). The average daily cost of incarcerating a young person is $241 compared to that of an effective, community-based alternative-to-incarceration program is $75 (ACLU-Juvenile Justice).
Spending on youth incarceration continues to stretch local and state budgets and divert resources from other critical public needs, including education.

**Policy Recommendations**

**Recommendation 1**

Congress should pass legislation that implements a national task force that researches and implements alternatives for youth incarceration. This can help put an end to lifelong negative consequences for youth. This national task force will decrease the school to prison pipeline, break the cycle of youth crime, and design a full range of support services to youth. The task force should convene to provide feedback on recommended alternatives to incarceration for youth that would be beneficial for youth. For states that do not incarcerate youth, recommendations will be provided on how to improve positive youth development opportunities for young people in their state. The task force shall last for 15 months with a report of the recommendations and findings that every state can fulfill, including suggested federal legislation. These meetings should be held virtually because there will be difficulties in meeting in person. The task force shall hold monthly meetings. There shall be public hearings to gather input from communities for each state. Each person in the task force shall conduct a site visit to a program that provides community-based alternatives to incarceration in other jurisdictions that have demonstrated reduced recidivism. A majority of the voting members of the task force constitutes a quorum. In order to encourage states to follow guidelines of the recommendations of the task force, Congress should incentivize states to follow through with recommendations through funding. When states follow the guidelines provided by this task force, the government should release the expected amount of funding for programs. If the state does not follow guidelines, their funding will be reduced or cut. This will force states to follow the protocols while decreasing the number of youths in the juvenile justice system.

**Recommendation 2**

Congress should ensure that the taskforce has fifty people, represented one person from each state, the District of Columbia and Puerto Rico. A position
needs to be created for someone to oversee the task force and a second position to support the coordinator of the program. The national taskforce should be compromised of a representative from each state since prison systems vary by state, counties, and cities. Ten of the council members should be youth who have been incarcerated or in alternative programs to provide expertise to the taskforce. Youth taskforce members will not only give a voice for youth nationally but will provide recommendations and guidance around the issues that affect them. The coordinator will also gather information about why specific states have higher rates than others. They will analyze patterns and explain how others have achieved low youth incarceration rates. This will help the task force receive an understanding of what practices support young people and which practices do not.

**Recommendation 3**

Congress shall create a committee of 10 Members of Congress from the Senate Judiciary Committee and the House Education and Labor Committee who shall be in a charge of the selection committee that ensures an equitable and inclusive process on deciding who will be on the national task force. The committee will include 5 Senators and 5 Representatives and will include an equal number of Democrats and Republicans. The selection committee will create an application process on how to decide members from each state. The selection committee will ensure equal opportunity and diversity. The application and decision process should only take 6 months altogether. Once the task force is formed, it should not take more than 15 days to host the first meeting. The committee may appoint individuals to participate as nonvoting members of the task force, with preference given to individuals affected by the juvenile justice system.