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CAMPAIGN FOR YOUTH JUSTICE

BECAUSE THE CONSEQUENCES AREN'T MINOR

# August 2008 Newsletter

The Campaign for Youth Justice is a national organization dedicated to ending the practice of trying, sentencing, and incarcerating youth under the age of 18 in the adult criminal justice system.

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## FROM THE HILL

### Rachel King, Advocate for Justice, Dies at 45

It is with great sadness that we report the death of Rachel King, who was for many years a strong advocate on youth and criminal justice issues. Most recently she worked for Representative Bobby Scott on the Subcommittee on Crime, Terrorism, and Homeland Security. She was a tireless, dedicated individual who strove to give a voice to the many individuals affected by injustice, including writing two compelling books on families affected by the death penalty.

Rachel displayed tremendous courage as she continued her work through difficult circumstances. Her willingness to put aside personal comfort and to fight her own battle with cancer while continuing to fight on behalf of others was the ultimate testament of her extraordinary life. Rachel was an amazing person to work with and will be missed in many circles and by many individuals whose lives she touched indirectly or directly.

A memorial service will be held in Washington DC in the next 2 weeks. If you wish to send a memorial, please send donations to the National Coalition to Abolish the Death Penalty ( http://ncadp.org ) in lieu of flowers.

## ACROSS THE COUNTRY

### DC Residents Reject Jail, Suport Rehabilitation for Youth

In response to the recent debate about juvenile justice, Campaign for Youth Justice commissioned a poll by Greenberg Quinlan Rosner Research of 820 registered voters in the District. Approximately 77 percent of those polled believe youth who are arrested and awaiting trial should be placed in a juvenile facility, not in the DC jail, an adult facility. The poll suggests that D.C. residents would strongly support the Juvenile Justice Improvement Amendment Act of 2008, a bill sponsored by DC Councilmembers Tommy Wells and Phil Mendelson, to remove youth from the D.C. jail and give adult court judges authority on whether to prosecute youth in the adult criminal justice system.

Moreover, the public overwhelmingly believes that youth should be rehabilitated and not merely incarcerated. There is a strong consensus that rehabilitating youth helps prevent future crimes and will save taxpayer money in the long run. D.C. voters believe that the most effective ways to rehabilitate youth involve providing them with opportunities to better themselves: vocational training, high school degree assistance, and mental health treatment.

To see the Greenberg Quinlan Rosner memo on the poll, visit http://www.gqrr.com/

articles/2228/4554_CYJyouth08m1.pdf.

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## Wisconsin Report Shows Recidivism, Racial Disparities in Automatically Prosecuting 17-Year-Olds as Adults

A recent report from the Wisconsin Council on Children & Families (WCCF), titled "Risking Their Futures: Why Trying Non-violent 17-year-olds as Adults is Bad Policy for Wisconsin," explores the effects and trends of sending this age group through the adult system. WCCF looked at 1,000 17-year-olds brought before adult court between September, 2001 and September, 2007 to examine sentencing patterns, recidivism rates, educational opportunities available during incarceration, and racial components to sentencing. WCCF Policy Analyst Wendy Henderson, author of the report, said, "The 1996 law requiring that we treat 17-year-olds as adults even for relatively minor, nonviolent offenses was a misguided product of a political climate that emphasized getting tough on crime, with little or no real evidence to support the policy. The evidence is now in, and it points clearly toward undoing our previous mistake."

More than half of the group was sentenced to jail or prison, even though nearly 80% of trials were only for misdemeanor charges. The most frequent sentence, jail time, was associated with the highest recidivism rate, while the least common sentence, deferred prosecution, correlated with the lowest recidivism rate. Moreover, 70% of these 1000 juveniles sent through adult court were convicted of a new crime during the period studied, equally split between felonies and misdemeanors. This recidivism rate is nearly double that of similar age groups sent through the juvenile system.

In addition, racial disparities emerged in the sentencing trends. When compared to Caucasian youth, African-American youth were far more likely to be incarcerated and far less likely to be returned to the community through deferred prosecution, fines, or probation. This trend held true for American Indians and Latinos as well. In the end, the WCCF recommends that 17-year-olds facing prosecution for non-violent crimes be returned to the juvenile justice system so that they may receive rehabilitative, age-appropriate treatment.

The full text of the report can be found at http://www.wccf.org/pdf/risking_their_futures.pdf.

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## CFYJ Welcomes Oregon's Partnership for Safety and Justice

The Campaign for Youth Justice is proud to introduce its new ally, The Partnership for Safety and Justice in Portland, Oregon. The Partnership works with survivors of crime, those convicted of crime, and families of both to advocate for programs and policies that reduce violence and recidivism. A major long-term goal of the new alliance with Partnership for Safety and Justice is the repeal of Measure 11, a law passed in Oregon in 1994 which automatically sends 15-, 16-, and 17-year-olds into the adult justice system with mandatory minimum sentencing and no chance of early release for about

20 person-to-person crimes.

Although repeal of Measure 11 is probably a few years down the road, (in 2000, a repeal of the measure lost by a 3-1 ratio), two bills on the horizon would soften Measure 11. A "second look" bill would allow a judge to offer youth the possibility of serving the second half of their sentence in the community. Another bill would restore judges' authority to decide on a case-by-case basis whether a child between 15 and 17 should be tried in the adult or juvenile system. The Campaign for Youth Justice looks forward to working with Partnership for Safety and Justice on these projects. Learn more about Partnership for Safety and Justice at http://safetyandjustice.org/.

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## "Raise the Age Connecticut" Campaign Leaders Take Connecticut Success on the Road

In August, leaders of Connecticut's "Raise the Age" campaign who are involved with probation and corrections hit the road to share their experience with colleagues at their national conferences. On August 5, CFYJ's Roger Ghatt accompanied Julie Revaz of Connecticut's Court Support Services Division (CSSD) to the national conference of the American Probation and Parole Association (APPA), where they gave a presentation entitled "Raising the Age of Juvenile Jurisdiction: The Connecticut Success Story." Ms. Revas, who is working with CSSD to develop programming and services for youth who will be moved to the juvenile system, discussed the reasoning behind and process for juvenile jurisdiction reform.

The following week, CFYJ's Roger Ghatt traveled to New Orleans with Mary Marcial of the Connecticut Department of Corrections and Leo Arnone, Director of the Connecticut Department of Juvenile Services, for the American Correctional Association's Congress of Corrections. In a workshop for fellow correctional officers and officials, the speakers discussed the benefits of the "Raise the Age" reform for youth and the adjustments that will be made in both systems to implement the new law in a way that best serves youth.

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## Princeton Group Recommends Reforms to New Jersey Waiver Laws

A recent report released by the Public Policy and International Affairs Fellows of Princeton University's Domestic Policy Workshop analyzes the original intent and actual impact of the waiver system in the State of New Jersey. The report, "Waiving Hope: An Analysis of the Juvenile Waiver Process in New Jersey," outlines recommendations to the New Jersey criminal justice system, including:

· Increasing rehabilitation efforts for juveniles in the adult system.
· Establishing a commission to examine reasons for the lack of uniform application of waiver guidelines across vicinages.
· Raising the standard of proof needed for waiver from probable cause to clear-and-convincing evidence.

· Retaining psychologists to evaluate each juvenile who is motioned for waiver.
· Allowing juveniles 16 years old or older to challenge a prosecutor's waiver motion.
· Studying disproportionate minority contact (DMC) of juveniles waived into the adult system.

You can review the full report on at http://www.campaignforyouthjustice.org/documents/Domestic_Policy_Final_Presentation.pdf.

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### New Book on Juvenile Justice

In a new book by Elizabeth S. Scott and Laurence Steinberg, Rethinking Juvenile Justice, the two leading scholars in law and adolescent development offer a comprehensive way to answer the questions "What should we do with teenagers who commit crimes?" and "Are they children whose offenses are the result of immaturity and circumstances, or are they in fact criminals?"

Scott and Steinberg argue that juvenile justice should be grounded in the best available psychological science, which shows that adolescence is a distinctive state of cognitive and emotional development. Although adolescents are not children, they are also not fully responsible adults.

The book outlines a new developmental model of juvenile justice that recognizes adolescents' immaturity but also holds them accountable. Developmentally based laws and policies would make it possible for young people who have committed crimes to grow into responsible adults, rather than career criminals, and would lighten the present burden on the legal and prison systems. In the end, this model would better serve the interests of justice, and it would also be less wasteful of money and lives than the harsh and ineffective policies of the last generation.

You can preorder the book here: http://www.amazon.com/Rethinking-Juvenile-Justice-Elizabeth-Scott/dp/0674030869

## RESEARCH AND POLICY

### New NCCD Report on Declining Number of Youth in Custody

The National Council on Crime and Delinquency (NCCD) released a new report, "The Declining Number of Youth in Custody in the Juvenile Justice System." The report reviews OJJDP data from the Census of Juveniles in Residential Placement and shows that overall numbers and rates of custody for youth have declined nationwide in the decade since 1997. Custody trends by individual states, gender, race/ethnicity, and offense type are available in the report as well. The report is available here: http://www.nccd-crc.org/nccd/pubs/2008_focus_JJS_custody_decline.pdf

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## Legal Victory in Vermont!

Congratulations to Anna Saxman, Kerry DeWolfe, and Doug Willey on their important victory in the Vermont Supreme Court! In the August 14, 2008 opinion, State of Vermont v. Jonas Dixon, the Supreme Court has found that a trial court abused its discretion in refusing to transfer a criminal case back to juvenile court.

Jonas Dixon (15-years-old at the time of the crime) was charged with second degree murder for shooting a man who had come to his home to have sexual relations with his mother. The court's opinion includes the facts of the case, including a careful account of Dixon's mother's history of severe mental illness, and a compelling account of Dixon's state when he was on the phone with the 911 operator after his mother called an ambulance:

> "Defendant was hyperventilating, moaning, and repeating, 'Oh my God, oh my God. What have I done? I don't know what the f--- I just did! He told the dispatcher, "I was so f---ing pissed, I don't know! I wanted him out of the house-I wanted him out!" When asked where the man had been shot, defendant stated, "I don't know. I just f---ing pulled the shotgun on him and told him to get the f--- out. Then he tried to attack. . . [to] take it away and I pulled the trigger!
> . . . Oh no, my life is over. I'm just going to f---ing go and kill myself. . . . It wasn't my fault. I was scared!'

Because he was between the ages of fourteen and sixteen at the time of the killing, under Vermont's juvenile code, upon Dixon's motion, the district court had discretion to transfer the case back to the juvenile court. At the contested hearing, the trial court considered testimony from two experts with differing opinions as to whether Dixon could receive enough treatment in the juvenile system before jurisdiction ends at age 18. After the hearing, the trial court denied Dixon's motion to return to juvenile court jurisdiction. The trial court considered the eight Kent factors for evaluating when a case should be tried in juvenile court, as well as three non-Kent factors. After weighing all the factors --particularly the extraordinary seriousness of the charged crime, its effect on the community, and the juvenile court's inability to mandate prolonged treatment for defendant -- the trial court determined that the equities argued against transferring the case back to juvenile court jurisdiction.

In considering whether the trial court abused its discretion in refusing to transfer the case back to juvenile court jurisdiction, the Supreme Court found error in the lower court's failure to give any weight to the "factual backdrop to defendant's actions," which included his inability to control any of the escalating events at home and the fact that there was a Department for Children and Family Services (DCF) "system breakdown" in Dixon's case. The Supreme Court found "[t]hat these events may have combined to overwhelm his youthful judgment" and so they should have "inform[ed] the district court's discretion in light of the special status accorded juvenile cases by the Legislature."

The Supreme Court also rejected the lower court's consideration of two of its non-Kent factors. It found that the lower court's concern that transferring the case back to juvenile court would impede the public's ability to follow the case through the judicial system "was not a proper consideration and was

not entitled to independent weight as a matter of law." The Supreme Court also concluded that the lower court's weighing the non-Kent factor of "system breakdown" -- i.e., that DCF's efforts in Dixon's case had fallen short -- against Dixon was incorrect.

The decision is available online here: http://www.vermontjudiciary.org/Resources/docs/Opinions.htm

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## New Report on Girls in Adult Prison in Connecticut

The Office of the Child Advocate (OCA) in the State of Connecticut has recently released a new briefing paper, "From Trauma to Tragedy: Connecticut Girls in Adult Prison" which provides an extensive account of how Connecticut has failed to meet the needs of girls prosecuted in the adult system. Connecticut currently prosecutes all 16- to 18-year-olds in the adult system, but that will change effective 2010 as a result of the "Raise the Age" legislation that passed in 2007.

The OCA found that more than 90% of the girls had either current or historical involvement with the Department of Children and Families (DCF), and nearly half of the girls had a current open case. Among the open DCF cases, 43% had bond amounts less than $5,000 and 17% had bond amounts less than $2,500. Instead of paying the 10% of the bond amount to obtain the girls' releases, girls are kept at York Correctional Institution (YCI), Connecticut's only prison for adult women.
YCI has a capacity for approximately 1,400 adult women. The majority of the girls are housed in the prison's maximum-security area for adult women. Girls are completely isolated in their cells on the maximum-security side of the prison as part of an effort to maintain sight and sound separation from the adult women.

The girls reside separately from the women on a lower tier (hallway) in single or double cells. Each 5x8 cell has a metal bunk bed, a writing surface, an open toilet and a small sink. Girls must use an intercom and buzzer to communicate with the DOC correctional officers who are stationed up a flight of stairs. The older girls (ages 16 and 17) left their cells only for meals, school, and during one hour for exercise, make phone calls, and shower. The younger girls (age 15 or younger) were placed together in a single cell for nearly 23 hours a day. They did not attend school and took all meals in their cell.

The full report detailing the conditions, problems, and recommendations for reform at YCI can be found at: http://www.ct.gov/oca/lib/oca/From_Tauma_to_Tragedy_CT_-_Girls_in_Adult_Prison_7-08.pdf

## MEDIA WRAP

## CFYJ Launches Facebook Group

We are happy to announce our new Facebook group: Campaign for Youth Justice. For those who do not know, Facebook is the most popular social networking site, which was originally designed to serve college students. Recently, many people outside of Academia have become a part of the growing Facebook movement, from professional writers to politicians to celebrities to everyday folks who are interested in connecting or stay connected with friends and others.

By default, anyone who wants to join our group must have a Facebook account. And while we do not promote registering to any online social networking group per se, since Facebook is free, easy to manage, and quite fun to maintain, we encourage all our friends and allies to join our Facebook group, to tell others, especially young people, about it and to help us create a more interactive and socially engaging Campaign for Youth Justice.

Once you have signed up, type in "Campaign for Youth Justice" in the search engine and you will see our group. Click on to our group and then you'll see an option to join. We are looking forward to having you and your friends join us.
JOIN THE MOVEMENT!!

http://www.facebook.com/group.php?gid=22937084155

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## Missouri Mother Advocates for Juvenile Justice Reform

Tracy McClard, of Missouri, has been prominent in the media this month advocating for juvenile justice reform. McClard's son Jonathan, the youngest of three, was arrested and convicted for shooting another teenager in the summer of 2007 and was sentenced to 30 years in prison, despite his tremendous potential for the future and the positive recommendation of Missouri's dual jurisdiction program director. Seven weeks later, and three days after his 17th birthday, while being transported to maximum security, level-five prison, he committed suicide by hanging himself with bed sheets. Tracy is now advocating for national and state laws that will keep youth out of adult prisons and jails and give them a second chance in the juvenile justice system.

McClard has developed a great connection with the Missouri media and has been seen on KFVS-TV, which transmits to Missouri, Illinois, and Kentucky households. She has also become a regular in the Southeast Missourian. She has written editorials, letters to editor, and has been featured in many articles. You can view a recent TV appearance at
http://www.youtube.com/watch?v=x0-nhyWu4NU.

When McClard is not talking to reporters, she teaches high school special education with a focus in

language skills. She also serves as a chaplain's assistant in the Army Reserves and is very involved with her church.

## VOICES

### Jonathan McClard

When Jonathan was 16 years old, his ex-girlfriend called him in a panic over threats from her new boyfriend. After taking a large dose of cold medicine, Jonathan used his father's gun to shoot the boyfriend, who survived, three times. Jonathan turned himself in and was put in a psychiatric hospital three and a half hours away from home. Afterward, Jonathan was sent to the county juvenile detention center, where he endured 23-hour-a-day solitary confinement. Jonathan was prescribed an inappropriate dose of an anti-psychotic medication that caused him to see blood running down the walls and gave him vivid nightmares.

The judge in Jonathan's case sentenced him to 30 years as an adult, despite the option of placing him in Missouri's dual jurisdiction program. The program director testified that Jonathan was an excellent candidate for the program, which places young offenders in secure facilities where there is counseling, education, and treatment in more home-like environments.

Instead, Jonathan was transferred to several county jails where he was mixed with the adult population. Although he was now out of solitary confinement, he no longer had access to schoolwork and was surrounded by drug use and a methamphetamine lab. At the same time, anti-narcotics policies resulted in the abrupt removal of his psychiatric medication, leading to intense withdrawal. Once, an inmate beat Jonathan until his entire head was severely bruised.

Jonathan was to be transferred to the adult prison system after turning 17 years old. But on the day of his transfer, Jonathan used bed sheets to hang himself when the guards were changing shifts. Supposedly the inmates around him explicitly informed Jonathan about what would happen to him once he was transferred. Jonathan's mother believes these comments from adult inmates influenced his decision to take his life.

Jonathan loved learning, fishing, the beach, tuning pianos with his father, and playing chess with his mom. He was intelligent, witty, and independent, with plans for college and a career in psychiatry, pharmacy, or even opening up a bar and grille on the beach.

## CFYJ WELCOMES NEW STAFF

## Introducing Kate Figiel, Communications and Outreach Assistant

Kate Figiel, of Baltimore, Maryland, joins CFYJ as Communications and Outreach Assistant. Kate is a member of the Jesuit Volunteer Corps community in Washington, D.C. She has a B.S. in psychology from Villa Julie College in Stevenson, MD. Her responsibilities at CFYJ include the monthly newsletter, weekly news roundup, the Case Profiles project, and special events. In the past she has worked as a psychiatric rehabilitation counselor and a dyslexia tutor; she is enthusiastic about learning about advocacy and non-profits and especially getting involved in juvenile justice reforms. Kate loves the outdoors, cooking, arts and crafts, and pursuing social justice.

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