

February 22, 2017

Representative Wm. Weston J. Newton, Chairman
Legislative Oversight Committee
228 Blatt Bldg.
Columbia, South Carolina 29201

Re: Increasing Public Safety and Appropriately Serving Justice-Involved Youth in South Carolina

Dear Chairman Newton,

We the undersigned, write on behalf of our children, our clients, and our communities regarding the Legislative Audit Council's limited review of the Department of Juvenile Justice (DJJ).

The findings of the review are deeply troubling. Particularly, the Council's findings regarding the uninvestigated and unreported deaths of two youth in DJJ's care, the lack of training for juvenile correctional officers, the non-compliance with the Prison Rape Elimination Act (PREA), the incomplete and inaccurate data tracking on the progress of youth in the system, and the lack of accountability and quality assurance of juvenile services at the county-level and in the wilderness camps.

We understand and appreciate the difficulties of serving South Carolina's most vulnerable and high-need youth, but the Council's findings suggest that there are deeper systemic issues within the Department of Juvenile Justice that must be addressed thoughtfully, but swiftly for the safety of our youth and our communities.

We believe that a transparent, evidence-informed, developmentally appropriate, and community-based juvenile justice system is the best system to serve high-need youth under 18. In order to develop this system in South Carolina, we, the community, DJJ, law enforcement, advocates, legislators, and other government officials, must work collaboratively to transform the juvenile justice system in order to increase public safety and appropriately serve our youth.

Here are a few of the steps we can take together.

Promote and resource delinquency prevention programs and alternatives to arrests and detainment. According to the 2015-2016 DJJ Statistical Report, the top ten offenses resulting in detention include running away, disturbing schools, and larceny.¹

¹ South Carolina Department of Juvenile Justice, Annual Statistical Report 2015-2016, 9
<http://www.state.sc.us/djj/pdfs/201516%20Annual%20Statistical%20Report%20Final.pdf>

Alternatives to detention for these offenses could not only save taxpayer money, but they could hold youth more accountable in a way that would not disrupt their education or separate them from their support systems. In Charleston, there is currently a pilot project bringing together diverse community and system stakeholders to develop community-based alternatives to incarceration. This pilot project called 'Community Connections for Youth Alternative to Incarceration Learning Community' could serve as a model for DJJ to develop across the state, particularly in high-detaining or high-committing communities.

Develop a continuum of community-based services based on the needs of youth and the strengths and assets of their families and their communities. Youth incarceration is associated with an increased likelihood of recidivism.² Comparatively, a study by John Jay Research and Evaluation found that community-based programs were associated with high rates of youth remaining arrests free (86 percent) and in their communities (93 percent).³ To improve public safety, youth incarceration should be a last resort reserved for those youth who pose an immediate safety risk. All other youth, should be served in community-based programs that can effectively teach youth how to function as law-abiding members of their community. For more information about how to develop a continuum of community-based services across South Carolina, please review the National Collaboration for Youth's new report: *Beyond Bars: Keeping Young People Safe at Home and Out of Youth Prisons*. There are groups already in South Carolina, like the Youth Advocate Programs, Inc. that could help develop and serve youth within this continuum.

Limit the use of residential evaluations. South Carolina incarcerates more than 1,000 children every year for up to 45 days in "residential evaluation centers." Despite their name, these facilities look like adult prisons. We encourage members of the Committee to visit these facilities. Inside, children wear DJJ jumpsuits, are surrounded by guards and barbed wire, and are kept in pods with other inmates. Many, if not most, of these children have committed misdemeanors and are placed on probation immediately upon release. These centers, like any form for incarceration, are extremely expensive, and serve neither children nor the public well. A study comparing children sent to these "residential evaluation centers" with similar children kept at home for community evaluations showed that incarcerating a child at an evaluation center increases the likelihood of recidivism by one-third.⁴ And a more recent study published

² McCarthy, Patrick, Vincent Schiraldi, and Miriam Shark. *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model*. New Thinking in Community Corrections Bulletin. Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 2016. NCJ 250142.

³ Evan, D. and Delgao, S., *Most High Risk Youth Referred to Youth Advocate Programs, Inc. Remain Arrest Free and in their Communities During YAP Participation* (April 2014) John Jay College of Criminal Justice Research and Evaluation Center.

⁴ Shapiro, Cheri J., Smith, Bradley H., Malone, Patrick S and Collaro, Alyssa L. (2010) 'Natural Experiment in Deviant Peer Exposure and Youth Recidivism.' *Journal of Clinical Child & Adolescent Psychology*, 39:2, 242-251

in *Pediatrics* found that even short stints in juvenile jail – such as those which occur at the evaluation centers – leads to significantly worse mental health outcomes as adults.⁵ Limiting the use of these evaluation centers in favor of community evaluations is cost-effective and improves public safety.

Limit the type of offenses that can result in commitment to the Department of Juvenile Justice. Incarceration is costly, not only for youth, but for taxpayers. As mentioned above, a recent study found that the “[c]umulative incarceration duration during adolescence and early adulthood is independently associated with worse physical and mental health in later adulthood.”⁶ For taxpayers, youth incarceration has a high price tag and yet does not generally result in lower recidivism or safer communities. According to the Justice Policy Institute, South Carolina paid \$426 a day or \$155,490 per year per youth for confinement in 2014.⁷ South Carolina’s resources should be put toward evidence-informed programs that are proven to rehabilitate youth and keep communities safe. Incarceration should be a last resort reserved for those youth who present an immediate safety risk to others. As a result, legislators should reconsider the types of offenses that result in commitment to DJJ and instead re-invest funding from the cost of incarceration to less expensive community-based alternatives. A number of states including Georgia⁸, Texas⁹, and Virginia¹⁰ have passed laws to change their commitment criteria, which has helped reduce youth incarceration and save money.

Decentralize DJJ’s system and shift to a Missouri Model that serves youth closer to their families and communities. Placing all committed youth in one large complex, sometimes hours away from their families and support networks, puts a strain on youth and families and negatively impacts reentry. South Carolina can adopt other models that have been proven to reduce recidivism. The Missouri Model has a long and well-established history of serving youth in a way that produces better outcomes. Specifically, youth are served in small, non-prisonlike facilities, closer to their homes, they receive individualized treatment, and there is a strong focus on family collaboration and reentry. The conditions and treatment of youth in these facilities have resulted in lower recidivism rates. According to a report by the Annie E. Casey

⁵ Barnett, ES., Dudovitz R, Nelson BB, et. al. How Does Incarcerating Young People Affect Their Adult Health Outcomes? *Pediatrics*. 2017; 139 (2): e20162624.

<http://pediatrics.aappublications.org/content/pediatrics/early/2017/01/19/peds.2016-2624.full.pdf>

⁶ *Id.*

⁷ Justice Policy Institute, *Sticker Shock: Calculating the Full Price Tag for Youth Incarceration*, 11 (2014)

http://www.justicepolicy.org/uploads/justicepolicy/documents/sticker_shock_final_v2.pdf

⁸ *Georgia’s 2013 Juvenile Justice Reform (2013)*, The Pew Charitable Trusts, 6

http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes/content-level_pages/reports/georgia20201320juvenile20justice20reform20summary20briefjuly2013pdf.pdf

⁹ Fabelo, T., Arrigona, N., Thompson, M., et. al. (2015) *Closer to Home: An Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms*, 16, <https://csgjusticecenter.org/wp-content/uploads/2015/01/texas-JJ-reform-closer-to-home.pdf>

¹⁰ HB 1355 (2004) <http://lis.virginia.gov/cgi-bin/legp604.exe?041+ful+CHAP0325>

Foundation, Missouri's three-year re-incarceration rate is around 16.2 percent compared to average rates across the country of 26 to 62 percent.¹¹ A smaller decentralized system will not only help South Carolina provide more individualized treatment closer to a young person's community, but it could also aid in addressing gang and safety concerns that are more difficult to address in a single large facility with a higher population. More information on the Missouri model is available in the report: *The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders*.¹²

To move toward these reforms, we would recommend utilizing the national expertise of organizations, like the Center for Children's Law and Policy, that have offered technical assistance and expertise to help address many of these issues. We also recommend developing a task force focused on juvenile justice reform that includes directly impacted youth and families, advocates, service providers, legislators, and system stakeholders. The task force should be open to the public and its mission would be to develop concrete recommendations and action steps that the Department could take to transform its system. The Department would provide updates on its progress and receive feedback as well as accountability from Task Force Members and the public.

States that have successfully implemented juvenile justice reforms and raised the age of juvenile court jurisdiction have seen costs savings as a result of reduced referrals, reduced detention, and reduced recidivism.¹³ In the long-run, working together to better support our youth is good for young people and their families, it is good for public safety, and it is good for the state's finances. South Carolina can be a model of juvenile justice reform if we work together to address systemic issues and focus on developing community capacity to serve youth, keep youth closer to their families and support networks, and utilize South Carolina's resources for evidence-informed treatment for youth.

Sincerely,

American Civil Liberties Union of South Carolina
Campaign for Youth Justice
Community Connections for Youth
Every Black Girls, Inc.
Girls Rock Columbia
Girls Rock Charleston

¹¹ Mendel, R., (2011) *No Place for Kids*, Annie E. Casey Foundation, <http://www.aecf.org/m/resourcedoc/aecf-NoPlaceForKidsFullReport-2011.pdf>

¹² Mendel, R., (2010) *The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders*, Annie E. Casey Foundation, <http://www.aecf.org/m/resourcedoc/aecf-MissouriModelFullreport-2010.pdf>

¹³ *Analysis: The Impact of Raising the Age in Illinois*, Illinois Department of Human Services, <http://www.dhs.state.il.us/page.aspx?item=64934>, see also, *Connecticut's Juvenile Justice System: Progress and Challenges for 2016 and Beyond*, (March 2016), Tow Youth Justice Institute, University of New Haven, <http://www.newhaven.edu/1010897.pdf>

Justice 360
National Juvenile Justice Network
Peter Shevlino
Protection and Advocacy for People with Disabilities, Inc.
South Carolina Appleseed Legal Justice Center
Youth Advocate Programs, Inc.

Cc: President Pro Tempore, Senator Hugh K. Leatherman
Speaker James H. Lucas
Speaker Pro Tempore Thomas E. Pope
Senator Gerald Malloy
Senator Shane R. Martin
Senator Luke A. Rankin