

September 19, 2018

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
S-230 U.S. Capitol
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
H-232 U.S. Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
233 Cannon House Office Building
Washington, DC 20515



Re: Reauthorization of the Juvenile Justice Delinquency and Prevention Act

Dear Leader McConnell, Leader Schumer, Speaker Ryan, and Leader Pelosi:

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Washington DC 20005
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Susan Herman
President

Anthony Romero
Executive Director

Faiz Shakir
*National Political
Director*

On behalf of the American Civil Liberties Union (ACLU), we urge you to take the swiftest path forward to reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP A) by supporting the House-passed bill with a Senate amendment that includes a phase out of the Valid Court Order (VCO) exception. It has been over a year since the House of Representatives and the Senate passed the Juvenile Justice Reform Act of 2017 (H.R. 1809) and Juvenile Justice and Delinquency Prevention Reauthorization Act (S. 860) respectively and over 15 years since the last JJDP A reauthorization in 2002.

We thank Senator Grassley, Senator Whitehouse, Congressman Lewis, and Congressman Scott for writing strong, bipartisan bills that passed both chambers by voice vote. This year marks the 44th anniversary of the JJDP A, which provides a national standard for state and locally run juvenile justice systems, helping to ensure that young people are treated fairly and housed safely throughout all 50 states. The JJDP A provides much needed protections and support for more than 50,000 kids who are currently living away from their families while being held in juvenile detention facilities, corrections facilities, group homes, or shelters.

The ACLU supports the strong provisions in H.R. 1809 and S. 860 that build upon the core protections established in the JJDP A. These include restricting youth contact with adult offenders by prohibiting kids from being held in adult lock-ups while awaiting trial in adult criminal courts and ensuring sight and sound separation in the limited circumstances they are held in adult facilities. Government data shows that youth of color are over-represented at all stages in the juvenile justice system, facing higher arrest

and detention rates than their white peers.¹ These two bills support states and localities in studying and implementing measurable goals to address the problematic practices that result in youth of color being over-represented and disproportionately penalized.

These critical protections will improve the safety of the juvenile justice system, effectively address high-risk and delinquent behavior, and help youth become productive members of society. Another important provision towards this goal is included in H.R. 1809 to phase out the use of Valid Court Orders (VCOs) to incarcerate youth for committing status offenses – behaviors that would not be a crime if committed by an adult, such as skipping school, running away from home, or violating curfew laws. The JJDPA was originally written to prevent youth from being detained for status offenses; however, in 1980, the VCO exception was added to the JJDPA, which under current law allows judges to place status offenders in locked detention if they were to violate a court order.

Since then, studies show that securely detaining status offenders is both harmful to youth development and costly, especially when compared to more effective community-based alternatives including shelter care, crisis counseling, and family support programs.² Based on this evidence, H.R. 1809 requires states to phase-out the use of the VCO exception by 2020, but allows states one-year hardship extensions if they need additional time. A similar provision was removed from S. 860 before final passage. Resources going toward youth detention in those cases could be invested in more effective community or school-based intervention programs, building upon the compliance and accountability measures featured in both pieces of legislation.

Additionally, the bills include other crucial provisions to:

- allow for easier transfer and application of education credits earned by system-involved youth across school systems and call for individualized case plans to help youth reenter their communities, including education and job training assistance;
- support state efforts to expand youth access to counsel to inform youth of opportunities to seal or expunge juvenile records once they have left the juvenile justice system;
- support evidence-based, trauma-informed practices that address the impact of adversity on adolescent behavior and development;
- encourage increased family involvement in design and delivery of treatment and services, including mental health and substance abuse needs;
- strengthen provisions to promote community-based alternatives with a proven impact on reducing recidivism;
- recognize the specific needs of vulnerable populations such as trafficked youth and Tribal youth; and

¹ Charles Puzzanchera & Sarah Hockenberry, NAT'L CTR. FOR JUVENILE JUSTICE FOR THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, *National Disproportionate Minority Contact Databook* (2013), <http://www.ojjdp.gov/ojstatbb/dmcd/b/>.

² Dev. Services Group, Inc., OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, *Alternatives to Detention and Confinement* (2014), <http://www.ojjdp.gov/mpg/litreviews/AlternativesToDetentionandConfinement.pdf>.

- increase safety in confinement by promoting best practices and standards, including eliminating the use of restraints on pregnant girls.

For these reasons, we urge you to support the House-passed bill including the VCO phase-out with a Senate amendment, which would embrace the JJDPAs goal of holistically improving the equity, safety, and rehabilitative success of the juvenile justice system to provide young people with a road map to becoming productive members of society.

Thank you for your time and consideration. If you have any questions, please feel free to contact Jennifer Bellamy at (202) 715-0828 or jbellamy@aclu.org.

Sincerely,



Faiz Shakir
National Political Director
National Political Advocacy Department



Jennifer Bellamy
Senior Legislative Counsel
Washington Legislative Office

CC: The Honorable Charles Grassley
The Honorable Sheldon Whitehouse
The Honorable Jason Lewis
The Honorable Bobby Scott