

July 17, 2008

The Honorable Edward M. Kennedy
United States Senate
Senate Russell Office Building 317
Washington, DC 20510

Dear Senator Kennedy:

We are encouraged and delighted to see you back in the Senate, making the world a better place. We wish you a speedy recovery and hope you know that you are regularly in our thoughts.

Thanks to support from your office, the Juvenile Justice Center of Suffolk University works hard on behalf of Massachusetts' court-involved children. The Center has represented over 3,100 children charged with offenses in the Boston Juvenile Court since 1999. The Center has also actively focused on one of the core areas of protection offered by the Juvenile Justice Delinquency Prevention Act (the "Act"), namely the systemic factors that lead to disproportionate minority contact with police and confinement by the courts.

Annually, approximately 20,000 children in Massachusetts are arrested; some subset of these children are detained and committed in the Department of Youth Services facilities. The Act is a major safety and oversight mechanism to ensure that the Commonwealth's arrested, detained and committed children are treated with the most minimal of protections. The Act provides a critical "floor" below which states' treatment of children must not fall. We are sorry to report that even with this federal mandate, Massachusetts regularly fails to sufficiently abide by these basic protections—the alternative lock up facilities are warehouses, money directed to reducing disproportionate minority confinement is routinely diverted to other causes due to the state's refusal to complement federal funding, and comprehensive planning for system wide improvements is hard to discern.

But without the Act, both its funded and unfunded mandates, the Center and advocates like the Citizens for Juvenile Justice and the ACLU of Massachusetts, would have even less in their arsenal to press for and leverage better treatment of these children, half of whom come from the custody of the Department of Social Services. For these reasons, the Center urges you to exercise your leadership by supporting re-authorization of the Act, S.1355. We remain hopeful that the bill can be further amended to provide stronger conditions of confinement language,

improved incentive grants language, and a phase-out of the statutory authority to confine youth status offenders in juveniles facilities.

Without reauthorization of the Act, our experience with current implementation of the Act leads us to worry that many of the systemic failures of Massachusetts' juvenile justice system will not be addressed by state government. S. 3155 meaningfully updates and improves many of the Act's core requirements, research and training resources and other key areas of the law. We are pleased to see such positive movement to reauthorize the JJDP, which, for more than 30 years, has provided states and localities with federal standards and supports for improving juvenile justice and delinquency prevention practices and put in place safeguards for youth, families and communities.

The specific improvements in amendments to S. 3155 have special import for Massachusetts.

- Strengthens the Disproportionate Minority Contact (DMC) core requirement: Massachusetts does not have and members of the state's juvenile justice agencies actively resist systematic collection of data that would assist in understanding the junctures at which youth of color are disproportionately over-represented and subject to more punitive sanctions of the juvenile justice system. Our advocacy efforts, in conjunction with those of Citizens for Juvenile Justice and the ACLU of Massachusetts, to enact legislation to collect this data and to require state allocations to be premised on release of such data, have been effectively stopped at every turn. If enacted, S. 3155 will assist advocates by directing States and localities to plan and implement data-driven approaches to ensure fairness and to reduce racial and ethnic disparities, to set measurable objectives for DMC reduction and to publicly report on progress. ***In Massachusetts, where youth of color are 23% of the population and 75% of the youth incarcerated, this aspect of S. 3155 is critical.***
- Improves the Jail Removal and Sight and Sound core requirements: Research shows youth confined in adult jails and lock-ups face increased recidivism and high risks of assault and suicide. S. 3155 extends the jail removal and sight and sound core requirements to keep youth awaiting trial in criminal court out of adult lock-ups under certain circumstances. While our ultimate goal is to completely remove these youth from adult facilities, many small towns in Massachusetts need the financial support and the federal mandate to address these issues. ***S. 3155 takes a good step in this direction and will also assist Massachusetts advocates in demanding the state keep children in lock-ups that meet the minimum standards of confinement as required by licensing regulations of the Department of Early Education and Childcare.***
- Strengthens the deinstitutionalization of status offenders (DSO) core requirement: Reminding law enforcement that non-delinquent status offenders – children who are truant, runaway or violate curfew – are not criminals but children reflecting family failures. The practice of detaining, sometimes shackling children brought into court on CHINS warrants flies in the face of all evidence that securely detaining status offenders is harmful to pro-social development and costly, especially compared to more effective responses including shelter care, crisis counseling, family support, and/or community and school based interventions. Most of the state is moving towards community-based treatment of children in

need; to in any way criminalize children whose behavior actively signals to any half-aware date that they are in distress, defies reason and humanity. As the economy sours, as social services are rocked by budget cuts, the number of families in distress producing children in distress will obviously increase. ***S. 3155 critically reiterates the importance of treating status offenders as children in distress and prohibits their criminalization, an essential cornerstone of a human and economically sound approach to children in the Commonwealth, which has seen the doubling of the number of youth designated as CHINS since 2000.***

As regards funding levels, we urge passage of S. 3155 because it would set more appropriate authorization levels for Title II and Title V. Since 2001, Massachusetts has lost more than 80% of federal funding. This has had the unfortunate effect of making the state less concerned that its failure to live up to the demands of the Act it will suffer serious financial consequences. For instance, if the state chose to ignore the mandates of the Act, at best it would lose \$1.1 million in 2008 for noncompliance. This pittance does not act as an incentive to comply or address the more challenging aspects of the Act's mandates. ***S. 3155 would provide States with the resources to achieve and sustain compliance with the core requirements of the JJDP and take meaningful steps to improve juvenile justice systems and prevent delinquency and violence.***

The Act would also helpfully require conditions of confinement in juvenile facilities and provide comprehensive services and supports for youth including alternatives to detention that offer service which address the needs of youth at risk of becoming court involved. We also urge you to support the Act's goal of expanding the role of OJDDP in both its oversight and research functions—all of which benefits each and every state in the union.

For these reasons, we ask you to continue to lead the charge to ensure the re-authorization of this improved version of the Act. We continue to offer ourselves as a resource as the bill moves through the legislative process. Thank you for your efforts on behalf of youth, families and communities across the country.

Sincerely,

Lisa Thureau-Gray,
Managing Director
Juvenile Justice Center

Cc: Citizens for Juvenile Justice
ACLU of Massachusetts