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United States Senate
Committee on the Judiciary

By Electronic Delivery

RE: Hearing: “Improving Outcomes for Youth in the Juvenile Justice System” (February 28, 2017)

Chairman Grassley, Ranking Member Feinstein, and Members of the Committee:

As the director of research and policy for the Public Safety Performance Project at The Pew Charitable Trusts, I appreciate the opportunity to testify today on why states are prioritizing juvenile justice policy reform. Our project works with states to advance data-driven, fiscally sound policies and practices in the criminal and juvenile justice systems that protect public safety, hold offenders accountable, and control corrections costs. The following comments are informed by in-depth research and extensive work in the states that Pew has conducted over the past decade.

I. The Good News: Less Juvenile Crime and Less Juvenile Incarceration

Let me start with some very good news: according to the most up-to-date national statistics, juveniles in the United States are much less likely to be arrested for violent crime *and* much less likely to be committed to state custody than they were just 15 years ago.¹ From 2001 to 2014, the juvenile violent crime arrest rate fell 46 percent. And, over roughly the same period (from 2001 to 2013), the rate at which juveniles are committed to state-funded facilities dropped 53 percent. This is a true win-win: less juvenile crime *and* less juvenile incarceration.

II. The Opportunity: Applying Research to Policy

As the good news illustrates, crime and incarceration are not a zero-sum game: states don’t need more correctional beds to achieve less crime. In fact, they’ve achieved more public safety with dramatically lower levels of punishment. But public safety budgets *are* a zero-sum game: money spent in one area is unavailable for other purposes. So the challenge for public sector leaders is to align their jurisdiction’s policies and resources with what the research indicates will produce the highest return on investment in terms of public safety.

Juvenile correctional facilities present a high cost to taxpayers and provide a poor return on investment. For example, the State of Georgia was spending \$91,000 annually per juvenile in their secure youth development campuses in 2013. Sixty-five percent of youth released from these

¹ The Pew Charitable Trusts, “Juvenile Commitment Rate Drops 53%,” (2015), <http://www.pewtrusts.org/en/multimedia/data-visualizations/2015/juvenile-commitment-rate-drops-53-percent>. Note that violent crime arrest rate trend has been updated with original analysis by Pew.

facilities were re-adjudicated or convicted as adults within three years.² In Hawaii, the cost at the state's Youth Correctional Facility was a staggering \$199,000 per year per juvenile in 2013, and 3 in 4 youth released were re-adjudicated or convicted within three years.³

The explanation for these poor returns can be found in a growing body of research demonstrating that for many juvenile offenders, lengthy out-of-home placements in secure corrections or other residential facilities fail to produce better outcomes than alternative sanctions.⁴ And, in certain instances, they can be counterproductive. For example,

- One longitudinal study of serious adolescent offenders in Maricopa County, Arizona and Philadelphia County, Pennsylvania, found that after matching youth offenders on 66 factors, including demographics and criminal history, those in placement fared no better in terms of recidivism than those on probation.⁵
- An examination of long-term recidivism and education outcomes in Cook County, Illinois, found that juveniles who experienced confinement were more likely to drop out of high school and to be incarcerated as adults than youth offenders who were not incarcerated.⁶

In particular, studies of juveniles at lower risk to reoffend point to better recidivism outcomes for those who remain in community-based programs compared with those in out-of-home facilities. For example:

- An evaluation of Ohio's RECLAIM program found that the recidivism rate for low- and moderate-risk juveniles in facilities was at least twice that of comparable youth under supervision or in programs in their communities. For all but the very high-risk group, recidivism outcomes were better for offenders supervised in the community than for those in facilities.⁷
- A Florida Department of Juvenile Justice study of low-risk offenders found that diversion programs demonstrated lower recidivism rates compared with more restrictive options and that out-of-home placement was associated with the highest recidivism rates.⁸

² The Pew Charitable Trusts, "Georgia's 2013 Juvenile Justice Reform," (2013), <http://www.pewtrusts.org/en/research-and-analysis/reports/0001/01/01/georgias-2013-juvenile-justice-reform>.

³ The Pew Charitable Trusts, "Hawaii's 2014 Juvenile Justice Reform," (2014), <http://www.pewtrusts.org/research-and-analysis/issue-briefs/2014/07/hawaii-2014-juvenile-justice-reform>.

⁴ The Pew Charitable Trusts, "Re-Examining Juvenile Incarceration," (2015), <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/04/reexamining-juvenile-incarceration>.

⁵ Thomas A. Loughran et al., "Estimating a Dose-Response Relationship Between Length of Stay and Future Recidivism in Serious Juvenile Offenders," *Criminology* 47, no. 3 (2009), 699–740, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2801446/>.

⁶ Anna Aizer and Joseph J. Doyle Jr., "Juvenile Incarceration, Human Capital and Future Crime: Evidence From Randomly-Assigned Judges," working paper, National Bureau of Economic Research (June 2013), http://www.mit.edu/~jjdoyle/aizer_doyle_judges_06242013.pdf.

⁷ Christopher T. Lowenkamp and Edward J. Latessa, "Evaluation of Ohio's RECLAIM Funded Programs, Community Corrections Facilities, and DYS Facilities," (2005), http://www.uc.edu/content/dam/uc/ccjr/docs/reports/project_reports/Final_DYS_RECLAIM_Report_2005.pdf.

⁸ Michael Baglivio, Florida Department of Juvenile Justice, "Briefing Report: The Risk Principle" (2013), <http://www.djj.state.fl.us/docs/research2/briefing-report-the-risk-principle.pdf?sfvrsn=0>.

Erroneously, some believe that the substantial reductions in juvenile commitment rates over the past 15 years means that only the most violent, most chronically offending youth remain in correctional facilities. In state after state, the data indicate substantial numbers of youth who have been removed from their homes to state custody who either have limited criminal histories or present a low risk to reoffend; who were adjudicated for a non-violent and/or misdemeanor level offense; or who violated a term of community supervision or committed a status offense.

III. States Taking the Reins on Juvenile Justice Reform

Applying research to policy is not just an aspiration, it's what many states are doing. Over the past decade, Pew has supported dozens of successful efforts to safely reduce the size of juvenile or adult correctional populations by focusing custodial beds on the most chronic, violent offenders while reallocating a portion of the savings to evidence-based strategies that reduce recidivism. Without exception, these efforts begin with rigorous data analysis and are grounded in the large and growing body of research about what works to protect public safety.

In six of those states – Georgia, Hawaii, Kansas, Kentucky, South Dakota, and West Virginia – leadership of all three branches of state government has engaged in multi-year efforts to improve their juvenile justice systems, forming multi-disciplinary work groups; analyzing local data and practice; developing consensus policy recommendations; changing law, court rule, and agency policy; implementing reform; and tracking progress in order to make course corrections when necessary and celebrate success when appropriate. And Utah – the seventh state with which Pew has partnered – is advancing consensus recommendations as we speak.

These states vary tremendously in terms of geography, demographics, and party control but, guided by a common desire to protect public safety, contain correctional costs, ensure accountability, and improve outcomes for children and families, all of them secured the adoption of comprehensive reform packages with overwhelming bipartisan majorities. Georgia reduced mandatory minimum confinement periods, dropped disposition maximums, and established a voluntary fiscal incentive grant program to support counties that reduce commitments to state custody. Kentucky created an enhance pre-court diversion process for lower-level public offenses, restricted commitment for certain misdemeanor and Class D felony offenses, and mandated the use of validated screening and assessment tools to guide treatment, supervision, and placement decisions. Across the 12 legislative chambers of these six states, the total vote count has been nearly 800 yeas to not even 35 neas, and 8 chambers voted unanimously in support.

Those vote totals reflect consensus positions supported by a diverse array of voices, from the business community to the faith community, from law enforcement to advocates from the right and left, and many others. Ultimately, they reflect the views of the voting public as measured through opinion polling. A 2014 national survey Pew commissioned by the Mellman Group and Public Opinion Strategies found that 85 percent of likely voters agreed that, “It does not matter whether a juvenile offender is sent to a juvenile corrections facility or supervised in the community. What really matters is that the system does a better job of making sure that he or she is less likely to commit another crime.”⁹ Notably, support was consistent across party affiliation, with agreement

⁹ The Pew Charitable Trusts, “Public Opinion on Juvenile Justice in America,” (2014), http://www.pewtrusts.org/~media/assets/2014/12/pspp_juvenile_poll_web.pdf?la=en.

by Republicans, Independents, and Democrats at 86, 80, and 89 percent, respectively. Further, more than 80 percent of respondents from households including a crime victim or law enforcement member agreed.

For all these reasons – the research foundation, the consensus efforts, the focus on good governance – state juvenile justice reforms are legacy items for state leaders.

- Kansas Governor Sam Brownback stated, “Juvenile justice reform has been a priority for my administration. [...] I wanted to see recommendations that help Kansas protect public safety and improve outcomes across our juvenile justice system. This piece of legislation accomplishes that.”¹⁰
- Georgia Governor Nathan Deal stated, “...[w]e will continue our work by bringing legislation designed to produce better results with juvenile offenders and divert them from the adult system. ...[w]e would emphasize community-based, non-confinement correctional methods for low-risk offenders as an alternative to regional and state youth centers.”¹¹
- South Dakota Governor Dennis Daugaard stated, “Senate Bill 73 represents an important step forward for juvenile justice in South Dakota. The passage of this bill will lead to less crime, lower costs for taxpayers, and better outcomes for South Dakota’s youth and families.”¹²

And the initial results indicate a strong legacy in the making. First, the states have downsized the population of youth in correctional facilities and other out-of-home placements. In Kentucky, the number of youth in out-of-home placements has fallen 40 percent in two years. In Georgia, the number of youth in secure confinement has fallen 17 percent, and total commitments to the Department of Juvenile Justice are down by a third.¹³ In Kansas, year-over-year custody counts have fallen by more than a quarter.

Second, these population reductions allow the states to reallocate funds from residential beds to a continuum of lower-cost, higher-return supervision, services, and sanctions delivered in the community. Georgia took two detention centers and one Youth Development Campus off-line. Kansas and South Dakota are each closing one of their juvenile correctional facilities. Critically, the correctional beds that remain online are being focused on the relatively few youth adjudicated on more serious, violent felonies. In Kentucky, for example, felony commitments have remained relatively flat, while misdemeanor, violation, and other lower-level commitments have been cut dramatically.

¹⁰ Press Release, “Governor Brownback Signs Juvenile Justice Legislation,” (2016), https://www.doc.ks.gov/newsroom/releases/archive/2016/SB_367

¹¹ State of the State, “Deal: Focus on foundations that strengthen Georgia,” (2013), <https://gov.georgia.gov/press-releases/2013-01-17/deal-focus-foundations-strengthen-georgia>

¹² The Pew Charitable Trusts, “South Dakota’s 2015 Juvenile Justice Reform,” (2016), <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/01/south-dakotas-2015-juvenile-justice-reform>

¹³ “Report of the Georgia Council on Criminal Justice Reform, (2016), http://dcs.georgia.gov/sites/dcs.georgia.gov/files/related_files/site_page/GA%20Council%20on%20Criminal%20Justice%20Reform%202016%20Report.pdf

Anticipating a reduction in residential beds, the six states provided up-front investments totaling more than \$20 million into public safety strategies. Georgia launched a grant program to support localities as they expand the availability and quality of services for youth served in the community. South Dakota has provided all court services officers with a set of evidence-based skills to improve the quality of community supervision and rehabilitative services. Kansas is expanding access to a family-centered treatment program into every judicial district in the state, meaning that hundreds of youth can be served by a program shown to reduce recidivism while remaining at home.

Rigorous evaluation indicates this combination of supervision and services will reduce recidivism. To begin with, lower level youth are being diverted from the residential correctional facilities that the research indicates will, on the whole, either have no effect or increase the likelihood of recidivism. But the states aren't just putting down the shovel; they're using it to build a foundation for a stronger juvenile justice system. State investments in cognitive-behavioral and family based therapies have been demonstrated effective for diverse populations across multiple sites through randomized controlled trials.¹⁴ Functional Family Therapy, the model adopted in Kansas, has been shown through years of study to achieve double-digit percentage reductions in re-arrest and other recidivism, and do so at a fraction of the cost of a residential bed.¹⁵

Implementation matters, and the six states referenced have each benefitted greatly from implementation assistance funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and provided by the Crime and Justice Institute at Community Resources for Justice. From the selection and validation of risk and need assessments, to the design of structured decision making tools, to trainings on best practices in supervision, this assistance has helped states take research from policy to practice, where the rubber meets the road.

IV. State Action and Public Opinion on Status Offenses

Given this Committee's jurisdiction over the Juvenile Justice and Delinquency Prevention Act (JJDP) and particular interest in issues surrounding status offenses – behaviors like truancy and curfew violations that are not crimes for adults – and the valid court order, I want to close with three observations.

First, as states seek to accelerate and lock-in trends toward less juvenile crime and lower levels of correctional control, they have taken steps well beyond restricting the detention or placement of youth for status offenses. The six states mentioned earlier have, to varying degrees, restricted or prohibited the residential placement of youth for violations, misdemeanors, and/or certain felony offenses. Several have created presumptions of probation unless the court finds and creates a written record of the threat of harm posed by the youth.

¹⁴ Washington State Institute for Public Policy, "Updated Inventory of Evidence-Based, Research-Based, and Promising Practices: For Prevention and Intervention Services for Children and Juveniles in the Child Welfare, Juvenile Justice, and Mental Health Systems," (2016), http://www.wsipp.wa.gov/ReportFile/1639/Wsipp_Updated-Inventory-of-Evidence-Based-Researched-Based-and-Promising-Practices-For-Prevention-and-Intervention-Services-for-Children-and-Juveniles-in-the-Child-Welfare-Juvenile-Justice-and-Mental-Health-Systems_Report.pdf

¹⁵ Kansas Health Matters, "Functional Family Therapy," accessed February 2017, <http://www.kansashealthmatters.org/index.php?module=promisepractice&controller=index&action=view&pid=905>

Second, several states have explicitly restricted or prohibited the institutionalization of youth for status offenses. In 2013, Georgia prohibited residential commitment for all status offenders. In 2016, Kansas eliminated the valid court order exception for status offenders, meaning that those youth may not be held in secure detention under any circumstance.

Third, the voting public indicates in polling that they do not want youth removed from their homes for status offenses. In the same survey described above, 85 percent of voters agreed that “juveniles should never be placed in juvenile correctional facilities for status offenses like skipping school or running away, which would not be a crime if they were an adult.”

For all these reasons and more, Congressional leadership exercised through vehicles like JJDPA and OJJDP serves to support states as they bring their juvenile justice systems into alignment with research and public opinion, reinforcing trends toward less crime and less incarceration.

Thank you for the opportunity to testify. I would be glad to answer any questions.

Sincerely,

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Encl.: “Re-Examining Juvenile Incarceration: High cost, poor outcomes spark shift to alternatives,”
The Pew Charitable Trusts, (2015).