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Children's Rights

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By Carol Chodroff, advocacy director, US Program

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I was Anthony's teacher and I couldn't help him. Anthony, a 15-year-old boy who suffered from depression, was beaten up and slashed with a razor in a California juvenile detention center. He was incarcerated as a "status offender" for running away from his group home. (A status offense is not a crime if committed by an adult.) I tried to bring Anthony his books so he could do his homework. But Anthony was not allowed to have books in his cell. So he turned to the older kids, with more criminal experience, for lessons. Upon release, Anthony was addicted to meth.

Our nation's juvenile justice policies are replete with contradictions between practices proven to prevent crime, and punitive laws politicians promote to get elected. Juvenile and criminal justice principles, scientific research on prevention, intervention, and adolescent brain development, and US treaty obligations argue against the "lock 'em up and throw away the key" policies that harm children, increase recidivism and exacerbate crime.

The Juvenile Justice and Delinquency Prevention Reauthorization Act (JJDP), first enacted in 1974 and overdue for reauthorization, is pending in Congress. Next week, the Senate will consider this legislation and amendments to improve juvenile justice in this country. And improvement is long overdue.

Current juvenile justice practices ignore children's age and amenability to rehabilitation. On any given night in the United States, almost 10,000 children are held in adult jails and prisons, where they are particularly vulnerable to victimization because of their size and youth. The Centers for Disease Control recently reported that after release, children who are incarcerated in adult prisons commit more crimes, and more serious crimes, than children with similar histories held in juvenile facilities.

But sentencing children to die in prison is not the solution. The United Nations Convention on the Rights of the Child, which only the United States and Somalia have failed to ratify, prohibits sentencing youth to life without parole. In the United States, 2,484 people are currently sentenced to die in prison for an offense they committed when they were under 18. In contrast, not a single youth is serving this sentence anywhere else in the world.

Nearly 100,000 children, some as young as 10, are confined in juvenile detention and residential facilities, which are often plagued by harsh and abusive conditions. Representative George Miller (D-CA) recently lamented the thousands of documented child abuse and neglect cases in youth residential programs, including examples of children being forced to remain for hours in "stress" positions that make the facility "look more like Guantanamo Bay than a care facility for American children."

Study after study shows that over-reliance on institutionalization neither protects the public nor rehabilitates youth. And correctional confinement is not cheap: up to \$300 per youth per day, far more than even the most intensive home- and community-based treatment model.

The good news is that effective prevention and intervention programs, mental health and drug treatment services can foster resiliency and help children move out of the criminal justice system, return to school, and become responsible, hard-working members of our communities. And voters appreciate sound policy. MacArthur Foundation polling reveals that taxpayers overwhelmingly favor paying for rehabilitation programs rather than incarceration of youthful offenders.

Reauthorization of the act will provide federal support to reduce racial and ethnic disparities in the justice system, increase mental health and drug treatment services for youth, and eliminate disproportionate sanctions for minor and predictable adolescent misbehavior.

Reducing unnecessary and inappropriate incarceration of youth will increase opportunities for positive youth development and community safety.

There is no question that youth who commit crimes must be held accountable. The government has an obligation to keep the public safe and protect the rights of victims. But no juvenile court disposition, regardless of the offense, should ever include abuse, mental health deterioration, or death in prison. Nor should it increase crime. Children are different from adults, and the punishment imposed for their offenses should reflect their age, level of development, and greater potential for rehabilitation.

Senator Patrick Leahy (D-VT), a former prosecutor and co-sponsor of the act, put it best:

"I know well the importance of holding criminals accountable for their crimes with strong sentences. But when we are talking about children, we must also think about how best to help them become responsible, contributing members of society as adults. That keeps us all safer."

Congress should act now to improve juvenile justice. Winston Churchill said you can judge a civilization by how it treats its prisoners. If so, we're in trouble especially when our prisoners are children.

Carol Chodroff is the US Program advocacy director at Human Rights Watch and a former teacher for high school students in the juvenile justice system.

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