

*The City University of New York*

**CUNY SCHOOL OF LAW**

## ***Youth Criminally Tried and Incarcerated as Adults***

**Submission to the United Nations Universal Periodic Review of**

### **The United States of America**

**Second Cycle**

**22<sup>nd</sup> Session of the Working Group on the Universal Periodic Review**

**Human Rights Council**

**[May 2015]**

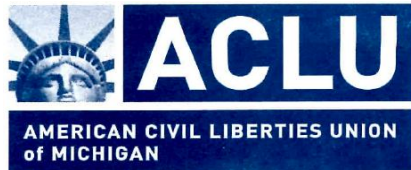
**Submitted: September 15, 2014**

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## **I. Summary and Introduction**

1. Each year approximately 200,000 youth are prosecuted as adults in criminal court,<sup>1</sup> and on any given day, thousands are incarcerated in adult jails and prisons.<sup>2</sup> By far, the vast majority of the youth who are criminalized and incarcerated in adult facilities are racial and ethnic minorities.<sup>3</sup> Youth sent to adult jails and prisons are subjected to multiple additional human rights violations. They are at high risk of physical and sexual assault.<sup>4</sup> They are deprived of age-appropriate programming, education, and medical and mental health care. Because prisons are not set up to meet the needs of youth, youth in prison are disproportionately punished through disciplinary actions and solitary confinement.<sup>5</sup>

## **II. Legal Framework**

2. In violation of the U.S.'s human rights obligations, state criminal laws permit, and in some cases require, that youth, defined as individuals under 18, be subjected to adult criminal prosecution and penalties. Youth are incarcerated in the adult criminal system not only for serious or violent crimes but also for misdemeanors. Indeed, New York data from 2010 indicates that 49% of the incarcerated youth population had originally been arrested for a misdemeanor.<sup>6</sup>

3. Youth wind up in the adult criminal system through a few different legal mechanisms. Youth who normally would be under juvenile court jurisdiction can be moved to adult criminal court, in many states, at the discretion of the prosecutor. For example, in Florida, where state law allows prosecutors to charge any 16-17 year-old accused of any felony and any 14-15 year-old accused of with specific felonies as an adult, 98% of youth transfers are decided by prosecutors, with no judicial review.<sup>7</sup> Some states mandate that certain youth be automatically charged as adults. In New York, all 16 and 17 year-olds are excluded from juvenile jurisdiction for any crime, and are tried, jailed, and imprisoned as adults,<sup>8</sup> while youth as young as 13 may be charged as adults for certain crimes. Michigan combines mandatory exclusion with prosecutorial discretion. It requires that all 17 year-olds automatically be tried as adults, and youth aged 14-16 may be "waived" through prosecutorial discretion into adult court. Additionally, youth of any age may be tried as adults through Michigan's "designated proceedings" process. Youth as young as 14 may be given life sentences with no possibility for parole. Further, in Michigan youth are precluded from being tried as juveniles if ever they were tried as an adult, though no conviction resulted.<sup>9</sup>

4. At the conclusion of the November 2010 UPR of the United States, several member states' recommendations that the US end sentences of life without parole for juveniles, and one state recommended enacting legislation to ensure that imprisonment is only used as a last resort when sentencing all juvenile offenders.<sup>10</sup> The US rejected these recommendations.<sup>11</sup> The US has taken some positive steps with regard to its treatment of youth in the context of the criminal system. Supreme Court decisions in 2010 and 2012 limited application of the sentence of life without the possibility of parole for juveniles.<sup>12</sup> However, judges still have the option of applying these sentences in certain cases.<sup>13</sup> In 2012 the Department of Justice (DOJ) published national standards under the Prison Rape Elimination Act addressing sexual violence in four types of facilities.<sup>14</sup> The PREA "Youthful Inmate Standard" provides that any person under the age of 18 must be housed separately from adult inmates in prisons, jails, and lockups.<sup>15</sup> Despite this

constructive step, the standards are not mandatory and many states do not follow PREA standards.<sup>16</sup>

### **III. Review of US Compliance With International Human Rights Obligations**

#### ***A. Torture and Cruel, Inhuman and Degrading Treatment***

##### *Mental, emotional, and physical harm*

5. Incarceration in adult facilities places tremendous stress on youth and fails to provide adequate mental health services and programming. As a result, youth in adult facilities are eight times more likely to commit suicide.<sup>17</sup> Additionally, youth in adult facilities are twice as likely to be physically harmed by staff.<sup>18</sup> Particularly troubling is the use of electro-shock devices, also known as Tasers. In Michigan, ten out of 38 youth in adult prisons surveyed in Michigan by the ACLU Michigan Juvenile Life Without Parole Initiative (JLWOPI) and the International Women's Human Rights Clinic (IWHR) indicated that they had been tasered, and 31 of them witnessed the tasing of other youth.

##### *Sexual Violence*

6. Youth also suffer sexual violence, often repeatedly, in adult facilities. The Department of Justice (DOJ) has recognized the increased risk of sexual violence faced by children in adult facilities.<sup>19</sup> Recent reports from the federal Bureau of Justice Statistics also reflect that youth under 18 are at great risk of sexual violence.<sup>20</sup> More than a third (38%) of children in adult prisons in Michigan responding to a survey JLWOPI and IWHR reported that they had been sexually assaulted while incarcerated (12% by staff, 35% by other prisoners and 9% by staff and other prisoners). In follow up interviews, youth reported being infected with sexually transmitted diseases as a result of sexual assaults, but were often denied testing, medical care, or forced to pay the cost for their examination and treatment.

##### *Solitary Confinement*

7. Despite international law prohibitions on placing youth in solitary confinement, youth in adult facilities are *more likely* to be placed in isolation.<sup>21</sup> In New York City Jails, 23% of youth under the age of 19 are placed in solitary confinement at any given moment.<sup>22</sup> Solitary confinement can have long-term serious impact on youth during a crucial time in their emotional and cognitive development. According to a recent report, youth in solitary in U.S. prisons reported physical harm,<sup>23</sup> self-harm (including cutting themselves and suicide attempts),<sup>24</sup> hallucinations,<sup>25</sup> and anxiety.<sup>26</sup> The continued practice in the US of holding people, including juveniles, in prolonged solitary confinement is of continuing concern to the UN Human Rights Committee, which recommended in recent Concluding Observations to the US that it abolish the practice for persons under the age of 18.<sup>27</sup>

##### *Rikers Island, New York*

8. A federal report documenting conditions for youth in jails on New York's Rikers Island states that adolescents are at constant risk of physical harm and live in incessant fear as they are subject to pervasive violence and unnecessary excessive use of force by Department of Corrections staff.<sup>28</sup> Even youth suffering from mental health impairments, which result in limited impulse control, are subjected to such unwarranted treatment.<sup>29</sup> Further, when youth suffer serious injuries such as "broken jaws, broken orbital bones, broken noses, long bone fractures, and lacerations requiring stitches" resulting from officers' use of force, DOC neglects to provide them prompt medical care.<sup>30</sup> Youth also suffer frequent punitive segregation amounting to solitary confinement on Rikers Island.<sup>31</sup>

### ***B. Racial and Ethnic Minorities Disproportionately Impacted***

9. By far, the vast majority of the youth who are criminalized and incarcerated in adult facilities are racial and ethnic minorities. Indeed, while there are troubling racial disparities throughout the U.S. prison system, the disparities are the most extreme among the youngest prisoners. In recent Concluding Observations directed to the US, the Committee on the Elimination of Racial Discrimination criticized the "the disproportionate rate at which youth from racial and ethnic minorities are arrested in schools and are referred to the criminal justice system, prosecuted as adults, incarcerated in adult prisons, and sentenced to life imprisonment without parole."<sup>32</sup>

10. Black youth are more than twice as likely to be arrested as white youth.<sup>33</sup> After arrest, they stand a much greater chance of being tried as adults. A 2007 study found that African-Americans constituted 83% of youth cases filed in adult courts.<sup>34</sup> The federal government does not provide a racial breakdown of the estimated 1,300 youth under 18 held in adult prisons, but available data shows that racial disparities are the most extreme among the youngest prisoners. Overall, the imprisonment rate of black males is 6 times that of white males, but among 18-19 year olds, black males are more than 9 times as likely to be in prison than white males the same age.<sup>35</sup> In 2002, nearly three out of four youth admitted to adult state prison were youth of color.<sup>36</sup> State statistics highlight the disparities. In Florida, Black boys are transferred to the adult system at twice the rate at which they are received in the juvenile system, while White boys are transferred at slightly below the rate at which they are received in the juvenile system.<sup>37</sup> In New York, of the 136 youth held in adult prisons on December 31, 2012, 65% (89) were Black, though only 17.5% of the state's general population is Black; 24% (32) were Hispanic, also disproportionate to their numbers in the general population; and 9% (12) were white, despite representing 57.2% of the general state population.<sup>38</sup> Youth of color also are much more likely to receive the most extreme sentences. For example, in Michigan, 73.4% of the individuals serving life without parole sentences for offenses committed as youth are people of color.<sup>39</sup>

### ***C. Right to Family, Education, Housing, and Employment***

11. Particularly when it comes to youth of color, states too often resort to criminalization and detention, including imprisonment in adult facilities,<sup>40</sup> instead of supporting alternatives to harmful criminal system approaches, and meaningfully addressing inadequate school funding and a lack of social services that ensure healthy community outcomes.<sup>41</sup> Youth in adult prisons are deprived of age-appropriate programming, education, and medical and mental health care. Because prisons are not set up to meet the needs of youth, youth in prison are disproportionately

punished through disciplinary actions and solitary confinement.<sup>42</sup> In solitary, denial of these important educational and developmental resources is even more severe. Youth are provided little to no physical activity, are not given age- and developmentally-appropriate nutrition, are denied contact with family members, are prevented from continuing educational pursuits, and are denied rehabilitative programming as mandated by international law.<sup>43</sup> Once released from prison, youth face a much higher re-arrest rate than youth processed in the juvenile justice system<sup>44</sup> and their convictions often impede access to employment, housing, and education.<sup>45</sup>

#### IV. Recommendations

The United States should:

- 12. Adopt measures to ensure that all youth in conflict with the law are not subjected to adult criminal procedures that fail to take into account their age and cognitive development and the desirability of promoting rehabilitation.
- Create meaningful incentives and penalties to ensure that states comply with the Prison Rape Elimination Act and enforce PREA's audit requirements.
- Currently most states do not collect or report data on youth prosecuted in the adult criminal justice system. The U.S. should require that states track the frequency and mechanisms by which youth are tried in the adult criminal justice system and develop nationwide statistical data on youth in the adult system that is disaggregated by race, ethnicity, gender and sexual orientation.
- Ensure that juveniles are not transferred to adult courts, are separated from adults during pretrial detention and after sentencing, and are not held in adult jails or prisons.
- Enact legislation to ensure that imprisonment is used only as a last resort when sentencing all juvenile offenders, and provide comprehensive services to criminal system-involved youth.

#### Endnotes

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<sup>1</sup> Patrick Griffin, Sean Addie, Benjamin Adams, and Kathy Firestone, *Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting*, U.S. DEP'T OF JUSTICE, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION NATIONAL REPORT SERIES, BULLETIN, 20-1 (Sept. 2011). This figure combines the estimated number of youth transferred from juvenile to adult criminal court and the estimated number of youth prosecuted as adults in states that exclude 16 and 17 year olds from juvenile court jurisdiction. The conservative estimate of youth who are tried as adults in states that try all 16 and 17 year olds as adults is 175,000. *Id.* at 21. There were 14,000 reported transfers of youth into the adult system in 2007, but most states do not track or report the data. *Id.* at 20.

<sup>2</sup> The combined single day count for youth in adult jails and prisons in 2012 was over approximately 6,800. This figure combines estimated counts of children in adult prisons on December 31, 2012 and children in adult jails on June 30, 2012. Todd D. Minton, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, JAIL INMATES AT MIDYEAR 2012 – STATISTICAL TABLES, 5 tbl. 2 (2013), *available at* <http://www.bjs.gov/content/pub/pdf/jim12st.pdf>; E. Ann Carson, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, PRISONERS IN 2012: TRENDS IN ADMISSIONS AND RELEASES, 1991-2012, 26 (2013) *available at*: <http://www.bjs.gov/content/pub/pdf/p12tar9112.pdf>. The BJS' reported number of youth in adult jails at mid-year of 2013 was reduced by approximately 800, from 5,400 at mid-year 2012, to 4,600. Todd D. Minton & Daniela Golinelli, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, JAIL INMATES AT MIDYEAR 2013 – STATISTICAL TABLES, 6 tbl. 2. (2014), *available at* <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=4988>. Statistics from 2013 on youth held in adult prisons were not available through BJS as of this report.

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- <sup>3</sup> HUMAN RIGHTS WATCH, BRANDED FOR LIFE 4 (2014), available at <http://www.hrw.org/node/124345/section/5>; MICHELLE WEEMHOFF & KRISTIN STALEY, MICHIGAN COUNCIL ON CRIME & DELINQUENCY, YOUTH BEHIND BARS 11 (2014) (“In 2012, 59 percent of youth who were waived or designated as adults were Black or African American, even though Black youth only make up 18 percent of the youth population statewide.”); U.S. Census Bureau (2010), Profile of General Population and Housing Characteristic of New York, retrieved from: [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_10\\_DP\\_DPDP1](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1); *Criminal Justice Case Processing of 16-17 Year Olds, Prepared by New York Division of Criminal Justice Services, Office of Justice Research and Performance, January 4, 2013, p. 3 and Table 6a*, available at: <http://www.cardozo.yu.edu/sites/default/files/Criminal%20Justice%20Case%20Processing%20of%2016-17%20Year%20Olds.pdf>.
- <sup>4</sup> 77 Fed. Register 119 (June 20, 2012), p. 37128 (noting that state prison inmates under 18 were more than 8 times more likely to have a substantiated incident of sexual abuse than the average inmate) available at <http://www.gpo.gov/fdsys/pkg/FR-2012-06-20/pdf/2012-12427.pdf>.
- <sup>5</sup> American Civil Liberties Union & Human Rights Watch, *Growing Up Locked Down: Youth In Solitary Confinement in Jails and Prisons Across the United States*, 63-65, 68 (October 2012). Solitary confinement has devastating psychological effects on youth, including an increased risk of suicide. *Id.* at 23-24.
- <sup>6</sup> *Criminal Justice Case Processing of 16-17 Year Olds, Prepared by New York Division of Criminal Justice Services, Office of Justice Research and Performance, January 4, 2013, p. 7, Table 3a*, available at: <http://www.cardozo.yu.edu/sites/default/files/Criminal%20Justice%20Case%20Processing%20of%2016-17%20Year%20Olds.pdf>.
- <sup>7</sup> HUMAN RIGHTS WATCH, BRANDED FOR LIFE, 3 (2014), available at <http://www.hrw.org/node/124345/section/5>.
- <sup>8</sup> N.Y. Penal Law § 30.00(1) (McKinney 2013).
- <sup>9</sup> MICHELLE WEEMHOFF & KRISTIN STALEY, MICHIGAN COUNCIL ON CRIME & DELINQUENCY, YOUTH BEHIND BARS 5 (2014).
- <sup>10</sup> UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review : United States*, 4 January 2011, A/HRC/16/11, p. 25-26, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/100/69/PDF/G1110069.pdf?OpenElement>
- <sup>11</sup> UPR Info, *Responses to Recommendations : United States of America*, 07 November 2011, p. 12, available at: [http://www.upr-info.org/sites/default/files/document/united\\_states/session\\_9\\_-\\_november\\_2010/recommendationstounitedstates2011.pdf](http://www.upr-info.org/sites/default/files/document/united_states/session_9_-_november_2010/recommendationstounitedstates2011.pdf).
- <sup>12</sup> *Miller v. Alabama*, 567 U.S. \_\_\_ (2012); *Graham v. Florida*, 560 U.S. 48 (2010).
- <sup>13</sup> MICHELLE WEEMHOFF & KRISTIN STALEY, MICHIGAN COUNCIL ON CRIME & DELINQUENCY, YOUTH BEHIND BARS 5 (2014).
- <sup>14</sup> Center for Children’s Law and Policy, *Prison Rape Elimination Act (PREA)*, <http://www.cclp.org/prea.php>; See also Prison Rape Elimination Act National Standards, 28 C.F.R. § 115 (2012).
- <sup>15</sup> National PREA Resource Center, *FAQ : Youthful Inmates*, 07 February 2013, available at: <http://www.prearesourcecenter.org/faq/youthful-inmates>; See also Prison Rape Elimination Act National Standards, 28 C.F.R. §§ 115.14, 115.114
- <sup>16</sup> Answer, *Doe v. Michigan Dept. of Corrections*, Case No. 13-000165-MZ (Mich. Ct. of Claims), para. 6.
- <sup>17</sup> AMERICAN BAR ASSOCIATION JUVENILE JUSTICE CENTER, MORE THAN MEETS THE EYE (1997).
- <sup>18</sup> M. Forst et al. *Youth in Prisons and Training Schools*, JUVENILE & FAMILY COURT, vol. 4 (1989) (finding that youth were twice as likely to be physically harmed by staff).
- <sup>19</sup> 42 U.S.C. § 15601(4).
- <sup>20</sup> From 2009-2011 youth under 18 were .4 percent of substantiated incidents of violence in prison (2009-2011) and .267% of the population in 2011 (1790 of 671,551), making them 1.5 times as likely to be a victim of sexual abuse; [cite to the 2013 report] See DOJ Supplemental Statement on PREA regs, 75 Fed. Register, 37106-01, 37128, stating that youth are 8 times as likely to have substantiated instance because youth were 1.5% of the substantiated incidents (2005-2008) and .2% of the population. Recent BJS reports show youth are at greater risk of sexual victimization than adults in prisons (4.5%-youth, 4% adults) and jails (4.7%-youth, 3.2% adults).
- <sup>21</sup> ACLU & HRW, *Growing Up Locked Down*, 101-111 (2012).
- <sup>22</sup> Testimony of Dr. Robert Cohen, NEW YORK CITY BOARD OF CORRECTION, Public Meeting, p. 6 (June 3, 2013) available at: <http://www.nyc.gov/html/boc/downloads/pdf/Minutes/BOC%20Minutes%2020130603%20with%20handout.pdf>.
- <sup>23</sup> 28 C.F.R. 115.14(b).
- <sup>23</sup> ACLU & HRW, *Growing Up Locked Down*, 37 (2012).

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<sup>24</sup> *Id.* at 36.

<sup>25</sup> *Id.* at 33.

<sup>26</sup> *Id.* at 26.

<sup>27</sup> Human Rights Committee, *Concluding Observations: United States of America*, 9 U.N. Doc. CCPR/C/USA/CO/4 (2014).

<sup>28</sup> Letter from Preet Bharara, the United States attorney in Manhattan, to Mayor Bill de Blasio, Joseph Ponte, Commissioner New York City Dep't of Correction & Zachary Carter, Corporation Counsel of the City of New York, p. 7-8, *available at*: [http://www.nytimes.com/interactive/2014/08/05/nyregion/05rikers-report.html?\\_r=1](http://www.nytimes.com/interactive/2014/08/05/nyregion/05rikers-report.html?_r=1).

<sup>29</sup> *Id.* at 14.

<sup>30</sup> *Id.* at 10.

<sup>31</sup> *Id.* at 46. "On any given day in 2013, approximately 15-25 percent of the adolescent population was in punitive segregation, with sentences ranging up to several months... The excessive use of punitive segregation can cause significant, psychological, physical, and developmental harm to adolescents." *Id.*

<sup>32</sup> Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined seventh to ninth periodic reports : United States of America*, 29 August 2014, CERD/C/USA/CO/7-9, p. 10, *available at*: [http://www.ushrnetwork.org/sites/ushrnetwork.org/files/cerd\\_concluding\\_observations2014.pdf](http://www.ushrnetwork.org/sites/ushrnetwork.org/files/cerd_concluding_observations2014.pdf). The Committee also called on the US to end the practice of trying youth as adults and holding youth in adult detention facilities. *Id.*

<sup>33</sup> In 2011, the arrest rate for black youth was 8380.5 per 100,000 blacks 10-17. The arrest rate for white youth was 3786.7 per 100,000 whites aged 10-17. National Center for Juvenile Justice (February 25, 2014). Juvenile Arrest Rates by Offense, Sex, and Race. Available: [http://www.ojjdp.gov/ojstatbb/crime/excel/JAR\\_2011.xls](http://www.ojjdp.gov/ojstatbb/crime/excel/JAR_2011.xls). See Sentencing Project, Disproportionate Minority Contact in the Juvenile Justice System, p. 2.

<sup>34</sup> NEELUM ARUYA & IAN AUGARTEN, CAMPAIGN FOR YOUTH JUSTICE, CRITICAL CONDITION: AFRICAN AMERICAN YOUTH IN THE JUSTICE SYSTEM 26 (2008).

<sup>35</sup> Bureau of Justice Statistics, *Prisoners in 2012: Trends in Admissions and Releases, 1991-2012* (Dec. 2013), p. 25, *available at* <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=4842>.

<sup>36</sup> NATIONAL COUNCIL ON CRIME AND DELINQUENCY, AND JUSTICE FOR SOME: DIFFERENTIAL TREATMENT OF YOUTH OF COLOR IN THE JUSTICE SYSTEM 34 (2007), *available at* [http://www.nccdglobal.org/sites/default/files/publication\\_pdf/justice-for-some.pdf](http://www.nccdglobal.org/sites/default/files/publication_pdf/justice-for-some.pdf).

<sup>37</sup> While comprising only 27.2% of children received by the juvenile justice system, Black youth account for 51.4 percent of all transfers to the adult system. White boys make up 28 percent of children received by the juvenile justice system, but account for only 24.4% of transfers to the adult system. HUMAN RIGHTS WATCH, BRANDED FOR LIFE 4 (2014), *available at* <http://www.hrw.org/node/124345/section/5>.

<sup>38</sup> NYS Department of Corrections and Community Supervision (DOCCS), Data Prepared by DOCCS, Report: *Current Age By Ethnic Status; Under custody December 31, 2012*; U.S. Census Bureau, State and County Quick Facts, New York, <http://quickfacts.census.gov/qfd/states/36000.html>.

<sup>39</sup> Out of 364 individuals serving juvenile life without parole sentences as of June 17, 2014, 256 are black, 8 are Hispanic, 2 are Asian, 1 is Native American and 97 are white. MDOC data as of June 17, 2014 analyzed by ACLU Michigan/JLWOP Initiative.

<sup>40</sup> Stephanie Francis Ward, 'School-to-prison pipeline' must end, lawyers and educators say, ABA JOURNAL (Feb. 7, 2014) *available at*

[http://www.abajournal.com/news/article/gestapo\\_tactics\\_must\\_end\\_say\\_school\\_discipline\\_panelists/](http://www.abajournal.com/news/article/gestapo_tactics_must_end_say_school_discipline_panelists/); In 2011, the arrest rate for black youth was 8380.5 per 100,000 blacks 10-17. The arrest rate for white youth was 3786.7 per 100,000 whites aged 10-17. National Center for Juvenile Justice (February 25, 2014). Juvenile Arrest Rates by Offense, Sex, and Race. Available: [http://www.ojjdp.gov/ojstatbb/crime/excel/JAR\\_2011.xls](http://www.ojjdp.gov/ojstatbb/crime/excel/JAR_2011.xls). See also Sentencing Project, Disproportionate Minority Contact in the Juvenile Justice System, p. 2; Neelum Aruya, *supra* note 34, at 26.

<sup>41</sup> GARY ORFIELD, JOHN KUCSERA, & GENEVIEVE SIEGEL-HAWLEY, THE CIVIL RIGHTS PROJECT, UCLA, E PLURIBUS...SEPARATION: DEEPENING DOUBLE SEGREGATION FOR MORE STUDENTS 20 (2012), *available at* <http://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/mlk-national/e-pluribus...separation-deepening-doublesegregation-for-more-students/>.

<sup>42</sup> AMERICAN CIVIL LIBERTIES UNION & HUMAN RIGHTS WATCH, GROWING UP LOCKED DOWN: YOUTH IN SOLITARY CONFINEMENT IN JAILS AND PRISONS ACROSS THE UNITED STATES, 63-65, 68 (October 2012). Solitary confinement has devastating psychological effects on youth, including an increased risk of suicide. *Id.* at 23-24..

<sup>43</sup> *Id.* at 23, 37, 39, 47.

<sup>44</sup> Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, U.S. Dep't of Justice,

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Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, OJJDP Juvenile Justice Bulletin, June 2010, at 6, *available at* <https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf>.

<sup>45</sup> LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY A REPORT ON BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS 18 (2004).