

June 8, 2021

Attorney General Merrick Garland
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Re: Request to Reissue and Update Advisory to Eliminate Juvenile Fees and Fines

Dear Attorney General Garland:

We write on behalf of the more than 180 organizations from across the country and political spectrum signed below to urge the Department of Justice (“DOJ”) to reissue and update the January 2017 “Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on Levying Fines and Fees on Juveniles” directed to state and local courts regarding best practices for assessment of fines and fees on juveniles.¹

Summary

- I. **The updated advisory should recommend that states abolish juvenile fees and fines:** The updated Advisory should underscore the importance of categorical bans on fees and fines for system-involved youth and their parents and guardians instead of the procedural protections set forth in the 2017 Advisory. In the last four years, states and localities around the country have passed legislation repealing some or all juvenile fees and fines, recognizing that such monetary sanctions generate little or no net revenue, undermine rehabilitation, and increase recidivism. Fees and fines also exacerbate the racial disparities of the system where disproportionately harsher treatment of Black, Brown, and Indigenous youth results in higher monetary sanctions. These harms cannot be addressed through procedural mechanisms such as ability to pay determinations or indigency presumptions.
- II. **The updated advisory should incorporate recent case law and emerging research to establish three key principles regarding the constitutionality of juvenile fees and fines:**
 - A. **Fees for court-appointed counsel for youth violate the Fourteenth Amendment’s Due Process and Equal Protection Clauses:** Youth in the juvenile system have an expansive right to counsel under the Fourteenth Amendment. State policies and practices that impose fees for court-appointed attorneys in the juvenile system chill a young person’s constitutional right to counsel by creating pressure for the youth to waive counsel or plead guilty.
 - B. **Juvenile fees and fines likely violate the Eighth Amendment’s Excessive Fines Clause:** In 2019, the United States Supreme Court in *Timbs v. Indiana* clarified that the Excessive Fines Clause of the Eighth Amendment applies to the states through the Fourteenth Amendment. Fines are excessive when they are grossly disproportional to an offense or

an individual's economic circumstances. Because system-involved youth are less culpable than adults, less likely to have financial resources, and face more long-term consequences from fines, imposing fees and fines on youth likely violates the Eighth Amendment.

- C. Race equity is integral to the constitutional analysis:** Fees and fines are rooted in a history of racial subjugation and they are imposed in the context of persistent racial bias, which reinforces and heightens racial disparities. Not only are Black, Brown, and Indigenous youth punished more often and more harshly than white youth, exposing them to higher fees and fines regardless of underlying conduct, but they are less able to pay such monetary sanctions because of the racial wealth gap. These structural disparities must be considered by the DOJ in its advisory on the excessiveness of juvenile fees and fines under the Constitution.

Background

Imposing fees and fines on youth who are unable to afford them risks creating a two-tiered justice system: “[y]outh and families who cannot pay fees face criminal contempt, civil judgments that follow them into adulthood, probation violations, additional fees, incarceration, property liens, and ineligibility for expungement”—risks that their wealthier peers do not face.²

Youth as a class are generally unable to pay fees and fines—and this practical context is critical to any legal and policy analysis. Youth under 18 are not financially responsible for their own care and face significant restrictions on their ability to work, contract, and obtain credit.³ Most are also of compulsory school age.⁴ Those who are old enough to work legally are increasingly shut out of the labor market as jobs that were once typically held by adolescents are filled by college graduates, workers over 55, and other adults seeking entry-level roles.⁵ The problem is worse for teens living in poverty. According to a report from Northeastern University, only 21% of teenagers from low-income families had jobs, compared to 38% of wealthier teens.⁶ Even for the few youth who do obtain employment, pushing youth to work too much and too soon may lead to long-term negative consequences, including worse academic performance and increased school drop-out rates, directly undermining rehabilitation.⁷

In 2016, recognizing the harm of criminal system fees and fines, the DOJ released a “Dear Colleague Letter” directed to state and local courts with best practices for assessment of fees and fines such as considering alternatives to incarceration for indigent defendants with outstanding debt.⁸ The DOJ’s January 2017 Advisory specifically addressed fees and fines imposed on young people in the juvenile system.⁹ This Advisory recognized the practical barriers to paying monetary sanctions, and the heightened protections for youth recognized in U.S. Supreme Court case law, including the landmark *Roper v. Graham* decision, and noted that the legal system should “recognize and protect the special vulnerabilities of children.” In December 2017, then U.S. Attorney General Sessions rescinded both the Dear Colleague Letter and the Advisory.¹⁰

In the past four years, the legal and policy landscape has shifted. In 2019 the U.S. Supreme Court incorporated the Excessive Fines Clause of the Eighth Amendment into the Fourteenth Amendment.¹¹ States and localities have started recognizing that juvenile fees and fines

generate little or no net revenue,¹² undermine rehabilitative goals, and increase recidivism. California, Maryland, New Jersey, Nevada, New Hampshire, New Mexico, Utah, Virginia, and Washington, as well as local jurisdictions in Kansas City, Madison, Memphis, New Orleans, and Philadelphia have taken formal actions to reduce or eliminate juvenile fees and fines.¹³ In addition to the repeal bills signed in New Mexico and Virginia this year, ten other states are considering legislation to eliminate juvenile fees and/or fines.¹⁴

Updated guidance from the DOJ recommending the abolition of juvenile fees and fines will support this growing movement for change.

Recommendations

I. THE UPDATED ADVISORY SHOULD RECOMMEND THAT STATES ABOLISH JUVENILE FEES AND FINES

Law and policy makers around the country have abolished fees and fines rather than adopted or expanded ability to pay inquiries or presumptions of indigency. Over-policing, over-prosecuting, and over-punishing of Black, Brown, and Indigenous youth at every stage of our justice system—higher rates of arrests and convictions and longer time spent on probation and in placement—mean that youth of color and their families are liable for higher fees and fines than white youth.¹⁵ The disproportionately harsher treatment of youth of color results in higher monetary sanctions that cannot be offset by ability to pay determinations or indigency presumptions.¹⁶

Ability to pay determinations are highly burdensome, often lack procedural protections, and reinforce racial stratification because they do not account or correct for: (1) racialized policing patterns, (2) racial stratifications in wealth accumulation and a deepening racial economic divide, or (3) the compounding effects that derive from inability to pay fees and fines from prior violations.¹⁷ They typically define indigency so narrowly as to leave out many impoverished individuals.¹⁸ They permit discretion that may result in further racial discrimination.¹⁹ Moreover, even when such determinations are required by statute or case law, courts have “creatively skirted the rules or flatly disobeyed them,”²⁰ and are often subject to little or no oversight:

*Ability-to-pay determinations often happen daily behind closed doors or in unmonitored courtrooms where there is no oversight or regulation. They can occur in front of an audience with no intimate understanding of the devastating conditions of poverty, such as a judge, an employee of the court, a collections agent, or any person authorized by the court or county.*²¹

To dismantle the persistent racial inequities caused by monetary sanctions, states must abolish juvenile fees and fines. This position is reflected in recent state legislative reforms, as described above, and also supported by law enforcement, corrections, and prosecution stakeholders, including Fair and Just Prosecution, Law Enforcement Leaders to Reduce Crime and Incarceration, and Youth Correctional Leaders for Justice, who have called for the abolition of fees and fines.²² Similarly, the National Council of Juvenile and Family Court Judges has highlighted problems with monetary sanctions imposed on youth and urged reliance on general revenue instead, and the American Probation and Parole Association has recognized that fees

and fines do not promote rehabilitation.²³

Abolishing juvenile fines and fees is also fiscally sensible. The costs of collection often outweigh any revenue from juvenile fees. A 2016 benefit-cost analysis found that abolishing juvenile fees in a single California county would result in a net financial benefit to society of more than \$5.5 million due to state and local administrative savings and reduction of labor market harms and wage garnishment.²⁴ Fiscal analyses in other jurisdictions reveal similar results,²⁵ and low collection rates only decrease with time.²⁶

II. THE UPDATED ADVISORY SHOULD INCORPORATE RECENT CASE LAW AND EMERGING RESEARCH TO ESTABLISH THREE KEY PRINCIPLES REGARDING THE CONSTITUTIONALITY OF JUVENILE FEES AND FINES

The DOJ's 2016 and 2017 guidance documents squarely addressed constitutional concerns about juvenile fees and fines. The Due Process and Equal Protection Clauses of the Fourteenth Amendment prohibit punishing people for their poverty, and governments may not incarcerate people solely because of their inability to pay a fee or a fine.²⁷ The concerns are heightened for system-involved youth. The 2017 Advisory explained that not only are youth entitled to all the constitutional protections that adults receive regarding fees and fines, but that the courts "cannot stop at the protections offered to adults."²⁸ The U.S. Supreme Court has expanded protections for youth, recognizing their "diminished culpability and greater prospects for reform,"²⁹ leading the DOJ Advisory to note that justice systems must respond to the special vulnerability of youth with respect to fees and fines. The DOJ should reiterate and build upon this analysis to encourage state and local jurisdictions to abolish juvenile fees and fines.

More specifically, the guidance should: (A) clarify that requiring payments for counsel in the juvenile system violates Due Process and Equal Protection; (B) update the Excessive Fines analysis in light of *Timbs v. Indiana*; and (C) incorporate the U.S. Supreme Court's recognition that fines are rooted in a history of racial discrimination.

A. Fees for Court-Appointed Counsel for Youth Violate the Fourteenth Amendment's Due Process and Equal Protection Clauses

In a 2015 Statement of Interest, the DOJ recognized the importance of legal representation for youth, and the pressures that they face to waive counsel.³⁰ Neither the 2016 Dear Colleague Letter nor the 2017 Advisory specifically addressed fees paid for indigent defense—including flat fees, application fees, and reimbursement fees. Significant research after the prior guidance, however, highlights the unique practical and constitutional issues relating to the imposition of fees for indigent defense provided to youth.

A 2017 study by the National Juvenile Defender Center based on telephone interviews with public defenders identified 19 states with statutes imposing fees for court-appointed attorneys.³¹ A 2018 Juvenile Law Center study identified an additional 19 states.³² These fees, like all justice system fees, create serious economic and other consequences, including "loss of housing, lack of money to pay transportation fees, loss of utilities or other basics of life due to inability to pay," barriers to "participation in other programs such as job corps [and] entry into military," and "severed relationships between family members."³³

Even more importantly, counsel fees chill a young person’s constitutional right to counsel, by creating pressure that may lead a young person to waive counsel or to plead guilty.³⁴ The U.S. Supreme Court “has long been sensitive to the treatment of indigents in our criminal justice system”³⁵ and has repeatedly carved out protections to “mitigate the disparate treatment of indigents in the criminal process.”³⁶ The Court has struck down statutory regimes that imposed undue burdens on the right to trial by jury³⁷ and the right to counsel.³⁸

A law unconstitutionally burdens adult defendants’ Sixth Amendment rights if it unduly pressures defendants to waive the right to trial or right to counsel. In *United States v. Jackson*, the U.S. Supreme Court outlined the applicable principle: Even where a State’s criminal system objectives are legitimate, “they cannot be pursued by means that needlessly chill the exercise of basic constitutional rights.”³⁹ The Court has repeatedly sought to protect the rights of indigent defendants from being chilled due to inability to pay.⁴⁰

The U.S. Supreme Court has considered the issue only in the context of adults’ right to counsel under the Sixth Amendment, not the rights of youth in the juvenile system under the Fourteenth Amendment. Nonetheless, two basic principles emerge from these cases that set a floor for the protections owed to youth: First, recoupment laws violate the Equal Protection Clause if they fail to provide indigent defendants the same exemptions other civil debtors enjoy. Second, even where indigent defendants receive the same exemptions as other debtors, recoupment laws may still violate the Sixth Amendment if they pressure indigent defendants to forgo counsel by failing to consider their ability to repay counsel fees.⁴¹

While these cases set a floor for constitutional protections, the analysis differs significantly for youth who are entitled to heightened protections for two reasons: (1) their right to counsel is protected under the Fourteenth Amendment, and (2) when counsel fees fall on parents, youth often experience heightened pressure to waive the right.

1. A youth’s right to counsel warrants heightened protections under the Fourteenth Amendment.

Significantly, the right to counsel for youth in juvenile court is protected by the Fourteenth Amendment, not the Sixth Amendment. *In re Gault* established a youth’s right to counsel in delinquency proceedings which could potentially result in the youth being “subjected to the loss of his liberty for years.”⁴² The Court noted assistance of counsel is essential “to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it.”⁴³ Establishing that the right to counsel in juvenile court is protected under the Fourteenth rather than the Sixth Amendment allowed the U.S. Supreme Court to create a more expansive right to determine whether “fundamental fairness” requires that young people receive special procedural protections.⁴⁴

2. Charging fees to parents unconstitutionally chills a youth’s right to counsel.

For youth in the juvenile system, counsel fees are typically imposed on the parent or guardian, while the right to counsel is held by the young person. This creates a serious risk of coercion and conflict.⁴⁵ While the youth’s best legal interest is having quality legal representation, parents may be interested in minimizing their financial burdens—or in urging

their children to “take responsibility” for their actions. In cases of domestic abuse, the conflict will run still deeper. And in specific cases, parents may also have legal interests that directly conflict with that of the young person, for example, if the parent is a victim or witness in a case.

Imposing the payment obligation on parents creates a unique pressure on youth to waive counsel at their parents’ behest. As a practical matter, youth are expected to obey their parents and to defer to their parents in financial decisions. This practical reality is also rooted in legal obligations. Indeed, young people who fail to obey their parents are at risk of being adjudicated dependent, delinquent, or a “child in need of services” based on “ungovernability” or “incurability.”⁴⁶ This can lead to consequences as severe as placement in secure confinement.⁴⁷

Youth, like adults, may only waive the right to counsel only if the waiver is knowing, voluntary, and intelligent.⁴⁸ As the U.S. Supreme Court has emphasized, youth need particular protections to ensure that their participation in legal proceedings is voluntary rather than a product of adult coercion. A young person “needs counsel and support if he is not to become the victim first of fear, then of panic. He needs someone on whom to lean lest the overpowering presence of the law, as he knows it, may not crush him.”⁴⁹ Indeed, the U.S. Supreme Court has repeatedly affirmed that youth are uniquely susceptible to coercion in ways that are constitutionally relevant. “A child’s age is far more than a chronological fact It is a fact that generates common sense conclusions about behavior and perception.”⁵⁰ Specifically, “children ‘are more vulnerable . . . to negative influences and outside pressures,’ including from their family and peers; they have limited ‘contro[l] over their own environment.’”⁵¹ This susceptibility to coercion means that youth will be more likely to bend to the pressure of their parents to waive counsel, and also that they will have a heightened need for that very counsel.⁵²

For this reason, some states have passed laws prohibiting youth from waiving counsel without first consulting with an attorney.⁵³

Department of Justice guidance should clearly highlight that charging youth and their families fees associated with appointed counsel violates the right to counsel, because it has an “unnecessary chilling effect.”⁵⁴

B. Juvenile Fees and Fines Likely Violate the Eighth Amendment’s Excessive Fines Clause

Neither the 2016 Dear Colleague Letter nor the 2017 Advisory referenced the Eighth Amendment’s prohibition on excessive fines. In 2019, in *Timbs v. Indiana*, the U.S. Supreme Court clarified that the Excessive Fines Clause of the Eighth Amendment applies to the states through the Fourteenth Amendment. Considering *Timbs*, the Eighth Amendment jurisprudence on adolescents’ and teenagers’ inability to earn money, the guidance should specify that such fines raise serious constitutional concerns.

In *Timbs*, the U.S. Supreme Court unanimously agreed that states are bound by the protections of the Eighth Amendment’s Excessive Fines Clause. Justice Ginsburg’s unanimous opinion noted that “[p]rotection against excessive punitive economic sanctions” is “fundamental to our scheme of ordered liberty” and “deeply rooted in this Nation’s history and tradition.”⁵⁵

The Eighth Amendment protections against excessive fines apply with even greater force to

youth. The U.S. Supreme Court has consistently recognized the reduced culpability of adolescents under the Eighth Amendment.⁵⁶ The Court has also recognized that punishments typically applied to adults may be more severe when inflicted on youth.⁵⁷ For example, sentencing a young person to life without parole is an “‘especially harsh punishment for a juvenile,’ because he will almost inevitably serve ‘more years and a greater percentage of his life in prison than an adult offender.’”⁵⁸

As described above, many youth have no way to earn the money they would need to pay fines. For youth who are too young to hold a job, or who are still in school full time, fines ask them to do the impossible—to pay money they don’t have and cannot earn. Although juvenile systems are intended to be rehabilitative, monetary sanctions increase recidivism and destabilize families.⁵⁹ And far too often, fines lead to further system involvement, including incarceration in secure prison-like conditions that have consistently been shown to be harmful to youth.⁶⁰ Fines also heighten existing economic and racial disparities in the justice system.⁶¹

Moreover, the punitive effects of outstanding debt can follow young people longer—and for a greater percentage of their lives—than adults. The punitive repercussions of juvenile fines do not vanish with dismissal of a delinquency proceeding. The effects follow youth into adulthood and may burden families well after a young person leaves home. Indeed, in a number of jurisdictions, courts retain jurisdiction over youth into adulthood for the sole purpose of collecting payment on juvenile fines.⁶² In many jurisdictions, juvenile fines become a civil judgment, sometimes subject to payment through wage garnishment, property lien, bank levy, or tax intercept.⁶³

These policies have grave consequences for a young person’s successful transition to adulthood. State law may preclude young people with civil judgments from obtaining or keeping a driver’s license or registering a vehicle.⁶⁴ Civil judgments can interfere with the ability of young people to get loans for higher education or housing.⁶⁵ They may be unable to seek expungement of their records while these debts are outstanding.⁶⁶ With a court record, limited transportation, obstacles to secure housing and education, and no financial resources, young people face an often insurmountable hurdle to moving past their youthful conduct.⁶⁷ Thus, even when they are imposed for minor adolescent behavior, fines may impose many years of subsequent punishment on a young person.

C. Race Equity Is Integral to the Constitutional Analysis

While the 2017 Advisory noted the risks of racial disparities in fees and fines, the U.S. Supreme Court’s opinion in *Timbs* suggests that the harms of such disparities should be further highlighted in any constitutional analysis. The Court emphasized the historical use of fines as a tool of racial subjugation.⁶⁸ Justice Ginsburg noted that after the abolition of slavery, the Black Codes fined newly-freed slaves and then “demanded involuntary labor” when they were unable to pay.⁶⁹

Today, Black, Brown, and Indigenous youth are punished more often and more harshly than white youth, exposing them to higher juvenile fees and fines regardless of underlying conduct. Research shows that Black, Brown, and Indigenous youth consistently experience harsher dispositions and are pushed further into the justice system than white youth, even when

controlling for alleged conduct.⁷⁰ As documented by the Office of Juvenile Justice and Delinquency Prevention, in 2018, Black youth made up less than 15% of the youth population in the United States, yet they accounted for 35% of cases referred to juvenile court, 40% of youth detained, 39% of case petitions, 37% of adjudicated cases, 36% of adjudicated cases resulting in probation, and 42% of adjudicated cases resulting in placement.⁷¹ Latinx youth were detained at a rate 1.5 times that of white youth and Indigenous youth were detained at 1.3 times the rate of white youth.⁷² Post-adjudication, these disparities continued: adjudicated Latinx youth were 1.4 times as likely as white youth to be sent to residential placement, while Indigenous youth were 1.2 times as likely (excluding tribal facilities) to be sent to residential placement.⁷³

At each legal decision point, juvenile fees and fines stack up and compound existing racial disparities. First, when Black, Brown, and Indigenous youth are arrested and convicted at higher rates, they also face conviction-related monetary sanctions at higher rates. Second, because youth of color spend more time on probation and in juvenile facilities than white youth, their families are liable for higher fees.⁷⁴ Third, juvenile fees and fines contribute to recidivism in ways that amplify racial disparities. In a sample of over 1,000 youth, research showed that having unpaid monetary sanctions after case closing led to higher recidivism, and that youth of color were 68% more likely to have unpaid monetary sanctions than their white peers.⁷⁵

As Black, Brown, and Indigenous youth face higher and more frequent fees and fines, they must also contend with the “[r]acial wealth inequality [that] is built into the structure of American society, . . . compound[ing] the effects of past discrimination.”⁷⁶ Because of the racial wealth gap, Black, Brown, and Indigenous youth are more likely to be saddled with unaffordable, and therefore disproportionately punitive, fees and fines. A \$500 fee or fine is *more likely* to be financially devastating and thus disproportionate to a Black, Latinx, or Indigenous youth than a white youth.⁷⁷ We urge the DOJ to emphasize that these structural racial disparities are relevant to the Eighth Amendment proportionality analysis and to constitutional considerations more generally.

Because monetary sanctions are rooted in a history of racial subjugation and reinforce and heighten racial disparities, the DOJ guidance should recommend that states and localities end, not mend, juvenile fees and fines.

Sincerely,

Juvenile Law Center

Berkeley Law Policy Advocacy Clinic

Fees and Fines Justice Center

National Center for Youth Law

National Juvenile Defender Center

CC: Deputy Attorney General Lisa Monaco
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List of Signatories as of June 7, 2021:

1Hood Media
American Civil Liberties Union
Adolescent Health Working Group
African American Juvenile Justice Project
Alianza for Youth Justice
Allegheny County Controller's Office
Alliance for Police Accountability
Amachi Pittsburgh
American Children's Campaign
American Civil Liberties Union of Pennsylvania
American Civil Liberties Union of West Virginia
Arkansas Advocates for Children and Families
Arts for Healing and Justice Network
Berkeley Underground Scholars
Black Girls Equity Alliance
Black Women for Positive Change
Black Women's Policy Agenda
Boston College Civil Rights Clinic
Brilliantly Blessed Community Health and Wellness
Calamari Productions
California Attorneys for Criminal Justice
California Public Defenders Association
Center for Children Law & Policy at University of Houston Law Center
Center for Employment Opportunities
Center for Juvenile Justice Reform at Georgetown University's McCourt School of Public Policy
Child Advocacy Program at Harvard Law School
Children and Adults Developmental Agency Programs
Children's Defense Fund
Children's Policy and Law Initiative of Indiana
Children's Rights Clinic at Southwestern Law School
Church Of Inclusion International Ministries
Citizens for Juvenile Justice
Civil Rights & Mediation Clinic at Washington University School of Law
Civil Rights Corps
Civitas ChildLaw Center at Loyola University Chicago School of Law

Coalition for Juvenile Justice
College & Community Fellowship
Communities in Schools Pittsburgh
Community Advocacy Lab at Columbia Law School
Community Legal Services in East Palo Alto
Connecticut Justice Alliance
Contra Costa County Public Defender's Office
Criminal Justice Program at UCLA School of Law
Cultivating Resilient Youth
Deep Center
Delaware Center for Justice, Inc.
Delaware Office of Defense Services
Destination Innovation Inc. for Progeny
Education Rights Center at Howard University School of Law
Ella Baker Center for Human Rights
Equal Justice Under Law
Equality California
Equality Federation
Fair and Just Prosecution
Families and Friends of Louisiana's Incarcerated Children
Family Law Practice Clinic at CUNY School of Law
First Focus on Children
Direct File and Youthful Offender Project at Florida International University College of Law
Feerick Center for Social Justice at Fordham Law School
Foundation of HOPE
Fred T. Korematsu Center for Law and Equality at Seattle University School of Law
Girls for Gender Equity
Green Life Earth Island project
Growing Greatness
Gwen's Girls
Healthy Lives, LLC.
Healthy Start, Inc.
Human Rights for Kids
Illinois Juvenile Defender Resource Center
Insight Center for Community Economic Development

James B. Moran Center for Youth Advocacy
Jomoworks
Justice Action Network
Justice for Children Project at the Moritz College of Law
Justice For Families
Justice Policy Institute
Justice2Jobs Coalition
Juvenile Justice Initiative
Kansas Appleseed
Lambda Legal Defense & Education Fund, Inc.
Law Enforcement Leaders to Reduce Crime & Incarceration
Lawyers For Children
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Legal Aid Justice Center
Legal Clinics at Southwestern Law School
Legal Rights Center
Legal Services for Prisoners with Children
Louisiana Center for Children's Rights
Maine Association of Criminal Defense Lawyers
Maine Center for Juvenile Policy & Law at the University of Maine School of Law
Mandel Legal Aid Clinic at the University of Chicago Law School
Maryland Office of the Public Defender
Mazzoni Center
Michigan Center for Youth Justice
Mid-Atlantic Juvenile Defender Center
Midwest Juvenile Defender Center
Minnesota Board of Public Defense
Mississippi Center for Justice
Mother's Against Wrongful Convictions
Mountain State Justice
National Association of Counsel for Children
National Association of Criminal Defense Lawyers
National Center for Law and Economic Justice
National Center for Lesbian Rights
National Consumer Law Center
National Council of Churches

National Crittenton
National Equality Action Team
National Juvenile Justice Network
National Network for Youth, Inc.
National Parents Union
New Jersey Office of the Public Defender
New Jersey Parents Caucus
New Mexico Center on Law and Poverty
Office of Child Development at the University of Pittsburgh
Office of the Ramsey County Attorney
Operation Restoration
Out For Justice
Pacific Juvenile Defender Center
Peace and Justice Committee of St. Michael's Episcopal Church
Pennsylvania Coalition for Justice
Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness
Pennsylvania Juvenile Court Judges' Commission
Performing Statistics
Pittsburgh Board of Public Education
Public Justice Center
R Street Institute
Rights4Girls
RISE for Youth
Root and Rebound
Criminal & Youth Justice Clinic at Rutgers School of Law
Ruth's Way, Inc.
San Francisco Financial Justice Project
South Carolina Appleseed Legal Justice Center
Schuylkill Public Defender
Searcy Consulting, LLC
Seton Hall Law School Center for Social Justice
Silver Moon Strategies
Silver State Equality
Southwest Juvenile Defender Center
SPAN Parent Advocacy Network
Stand for Children

Students for Sensible Drug Policy
Take Action Mon Valley
Tennessee Association of Criminal Defense Lawyers
The Choice Program at the University of Maryland, Baltimore County
The Commonwealth Institute for Fiscal Analysis
The Fortas Foundation
The Gathering for Justice
The Institute for Compassion in Justice
Post Conviction Innocence Clinic at New York Law School
The Sentencing Project
Touro Law Center Education and Youth Justice Clinic
Ubuntu Village NOLA
Underground GRIT
Children & Youth Law Clinic at University of Miami School of Law
University of Pittsburgh School of Nursing
Criminal and Juvenile Defense Clinic at University of St. Thomas School of Law
Utah Juvenile Defender Attorneys
Voices for Utah Children
W. Haywood Burns Institute
West End P.O.W.E.R.
Western Center on Law & Poverty
Women & Girls Foundation of Southwest Pennsylvania
Woodland Hills School District
Wyoming Children's Law Center, Inc.
YogaRoots On Location
Young Women's Freedom Center
Youth First Initiative
Youth Law Center
Youth Opportunity Clinic at Vanderbilt Law School
Youth, Education, and Justice Clinic at University of Maryland Carey School of Law
Youth, Rights & Justice

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- ¹ U.S. DEP'T OF JUST., *Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on Levying Fines and Fees on Juveniles* (2017) [hereinafter DOJ ADVISORY], <https://finesandfeesjusticecenter.org/content/uploads/2018/11/DOJ-Levying-Fines-and-Fees-on-Juveniles.pdf>.
- ² JESSICA FEIERMAN ET AL., JUV. L. CTR., DEBTORS' PRISON FOR KIDS?: THE HIGH COST OF FINES, FEES, AND RESTITUTION IN THE JUVENILE JUSTICE SYSTEM 7 (2016) [hereinafter DEBTORS' PRISON FOR KIDS].
- ³ *E.g.*, *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011) (quoting *Eddings v. Oklahoma*, 455 U.S. 104, 115 (1982)).
- ⁴ See Table 5.1: *Compulsory School Attendance Laws, Minimum and Maximum Age Limits for Required Free Education, by State: 2017*, NAT'L CTR. FOR EDUC. STATS., https://nces.ed.gov/programs/statereform/tab5_1.asp (last visited May 10, 2021).
- ⁵ One study found that the number of jobs held by teenagers between ages 14 and 18 shrank by 33% between 2001 and 2014. CAREER BUILDER, THE CHANGING FACE OF U.S. JOBS: COMPOSITION OF OCCUPATIONS BY GENDER, RACE, AND AGE FROM 2001-2014 (2015), <http://press.careerbuilder.com/2015-03-26-CareerBuilder-Special-Report-Tracks-the-Changing-Composition-of-Jobs-by-Gender-Race-and-Age-from-2001-2014>. See also Andrew Soergel, *Why Teens Are Getting Shut out of the Workforce*, U.S. NEWS & WORLD REP. (Mar. 26, 2015), <http://www.usnews.com/news/blogs/data-mine/2015/03/26/studies-suggest-teens-getting-shut-out-of-workforce>.
- ⁶ ANDREW SUM ET AL., THE DISMAL STATE OF THE NATION'S TEEN SUMMER JOB MARKET, 2008-2012, AND THE EMPLOYMENT OUTLOOK FOR THE SUMMER OF 2013 (2013), https://repository.library.northeastern.edu/downloads/neu:m0406v58n?datastream_id=content.
- ⁷ CHILD TRENDS DATA BANK, YOUTH EMPLOYMENT: INDICATORS ON CHILDREN AND YOUTH 2 (2015), http://www.childtrends.org/wp-content/uploads/2012/05/120_Youth_Employment.pdf.
- ⁸ Letter from Vanita Gupta, Principal Deputy Att'y Gen., Civ. Rts. Div., & Lisa Foster, Dir., Off. for Access to Just. (Mar. 14, 2016), <https://www.courts.wa.gov/subsite/mjc/docs/DOJDearColleague.pdf>.
- ⁹ DOJ ADVISORY, *supra* note 1.
- ¹⁰ Press Release, Dep't of Just., Off. of Pub. Affs., Attorney General Jeff Sessions Rescinds 25 Guidance Documents (Dec. 21, 2017), <https://www.justice.gov/opa/pr/attorney-general-jeff-sessions-rescinds-25-guidance-documents>.
- ¹¹ *Timbs v. Indiana*, 139 S. Ct. 682 (2019).
- ¹² While it is clear that juvenile systems, like adult criminal justice systems, seek fines for the purpose of revenue generation, it is less clear that they succeed. Rather the high cost of collection may sometimes outweigh the economic gain. See, e.g., POL'Y ADVOCACY CLINIC, BERKELEY L., UNIV. OF CAL., HIGH PAIN, NO GAIN: HOW JUVENILE ADMINISTRATIVE FEES HARM LOW-INCOME FAMILIES IN ALAMEDA COUNTY, CALIFORNIA 12 (2017) [hereinafter HIGH PAIN, NO GAIN], https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2738710; POL'Y ADVOCACY CLINIC, BERKELEY L., UNIV. OF CAL., MAKING FAMILIES PAY: THE HARMFUL, UNLAWFUL, AND COSTLY PRACTICE OF CHARGING JUVENILE ADMINISTRATIVE FEES IN CALIFORNIA 19 (2017) [hereinafter MAKING FAMILIES PAY], https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2937534; POL'Y ADVOCACY CLINIC, BERKELEY L., UNIV. OF CAL., FEE ABOLITION AND THE PROMISE OF DEBT-FREE JUSTICE FOR YOUNG PEOPLE AND THEIR FAMILIES IN CALIFORNIA (2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3474758.
- ¹³ *E.g.*, S. 190, 2017-2018 Leg., Reg. Sess. (Cal. 2017) (enacted); H.D. 36, 2020 Gen. Assemb., Reg. Sess. (Md. 2020) (enacted); S. 48, 2018-2019 Leg., 2d Ann. Sess. (N.J. 2020) (enacted); H.R. 1162, 2020 Gen. Ct., Reg. Sess. (N.H. 2020) (enacted); A. 439, 80th Leg., Reg. Sess. (Nev. 2019) (enacted); H.R. 183, 55th Leg., Reg. Sess. (N.M. 2021) (enacted); H.R. 239, 2017 Leg., Gen. Sess. (Utah 2017) (enacted); H.D. 1912, 2021 Gen. Assemb., Spec. Sess. (Va. 2021) (enacted); S. 5564, 2015-2016 Leg., Reg. Sess. (Wash. 2015) (enacted); Roxie Hammill, *Monitoring Equipment Fees for Children Go Away*, KANSAS CITY STAR (July 10, 2017), <https://www.kansascity.com/news/local/community/joco-913/article160633374.html>; Dane County, Res. No. 267 (2020), <https://dane.legistar.com/View.ashx?M=F&ID=8902294&GUID=D83025D2-1B28-4173-A41C-79FD7993798E>; Yolanda Jones, *Shelby County Juvenile Court Eliminates Fees for Families*, DAILY MEMPHIAN (Aug. 26, 2019), <https://dailyMemphian.com/section/metrocriminal-justice/article/7060/shelby-county-juvenile-court-eliminates-fees-for-families>; ORLEANS PARISH JUV. CT., STANDING POLICY ON JUVENILE ADMINISTRATIVE FEES (2018), <https://drive.google.com/file/d/18IQVfvHmO8rvSdhMLf7Pjr7lku1cdNiT/view>; Phila., Pa., Res. No. 161029 (Nov. 17, 2016), <https://phila.legistar.com/LegislationDetail.aspx?ID=2892230&GUID=0830ED46-D598-413C-BC9B-8859E0B0F6E2&Options=ID|Text|&Search=161029> (follow "Signature16102900.pdf" link to final resolution).

¹⁴ H.R. 2385, 55th Leg., 1st Reg. Sess. (Ariz. 2021); S. 455, 93rd Gen. Assemb., Reg. Sess. (Ark. 2021); H.R. 21-1315, 73rd Gen. Assemb., 1st Reg. Sess. (Colo. 2021); H.R. 1391, 2021 Leg., Reg. Sess. (Fla. 2021); H.R. 1208, 122nd Gen. Assemb., 1st Reg. Sess. (Ind. 2021); H.R. 216, 2021 Leg., Reg. Sess. (La. 2021); S. 3319, 2020-2021 Leg., 2d Ann. Sess. (N.J. 2021); S. 817, 81st Leg. Assemb., Reg. Sess. (Or. 2021); S. 41, 87th Leg., Reg. Sess. (Tex. 2021); H.R. 246, 66th Leg., Gen. Sess. (Wyo. 2021).

¹⁵ HIGH PAIN, NO GAIN, *supra* note 12, at 9; Jeffrey Selbin, *Juvenile Fee Abolition in California: Early Lessons and Challenges for the Debt-Free Justice Movement*, 98 N.C. L. Rev. 401 (2020).

¹⁶ One recent study showed how localities ramp up DUI and drug violation enforcement against Black and Latinx residents—but not white residents—during times of fiscal distress to meet their economic needs. Michael D. Makowsky et al., *To Serve and Collect: The Fiscal and Racial Determinants of Law Enforcement*, 48 J. LEGAL STUD. 189, 211 (2019). *See also* Alex R. Piquero, *Disproportionate Minority Contact*, 18 JUV. JUST. 59, 59-61 (2008).

¹⁷ Theresa Zhen, *(Color)Blind Reform: How Ability-to-Pay Determinations Are Inadequate to Transform a Racialized System of Penal Debt*, 43 N.Y.U. REV. L. & SOC. CHANGE 175, 193 (2019).

¹⁸ *Id.* at 203.

¹⁹ *Id.* at 207-08.

²⁰ *Id.* at 187.

²¹ *Id.* at 178.

²² FAIR & JUST PROSECUTION, FINES, FEES, AND THE POVERTY PENALTY (2017), https://fairandjustprosecution.org/wp-content/uploads/2017/11/FJPBrief_Fines.Fees_.pdf; L. ENF'T LEADERS TO REDUCE CRIME & INCARCERATION, ENSURING JUSTICE AND PUBLIC SAFETY: FEDERAL CRIMINAL JUSTICE PRIORITIES FOR 2020 AND BEYOND (2020), http://lawenforcementleaders.org/wp-content/uploads/2020/04/2020_04_LEL_Policy_Report_Final.pdf; YOUTH CORRECTIONAL LEADERS FOR JUSTICE, STATEMENT ON ABOLISHING YOUTH FINES AND FEES (2021), <https://yclj.org/fines-and-fees>.

²³ NAT'L COUNCIL OF JUV. & FAM. CT. JUDGES, RESOLUTION ADDRESSING FINES, FEES, AND COSTS IN JUVENILE COURTS (2018), <https://www.ncjfcj.org/wp-content/uploads/2019/08/resolution-addressing-fines-fees-and-costs-in-juvenile-courts.pdf>; AM. PROB. & PAROLE ASS'N, RESOLUTION: USE OF MONETARY JUDGMENTS FOR JUSTICE-INVOLVED INDIVIDUALS (Mar. 2017), https://www.appa-net.org/eweb/Dynamicpage.aspx?webcode=IB_Resolution&wps_key=d7b47532-7ae7-4464-b8bb-d667fb2f3d10.

²⁴ MAKING FAMILIES PAY, *supra* note 12, at 19.

²⁵ In the year before it stopped charging them, Santa Clara County, California spent \$450,000 to collect less than \$400,000 in juvenile fees. *Id.* at 18. According to state government records provided to Berkeley Law School's Policy Advocacy Clinic, Oregon spent \$866,000 to collect \$864,000 in support fees for youth in custody. OR. DEP'T OF JUST., DIV. OF CHILD SUPPORT, CHILD SUPPORT INFORMATION RELATED TO OREGON YOUTH AUTHORITY 5 (Nov. 25, 2020), <https://berkeley.box.com/s/5mgugtq1ritzrvj86rylezbfm5yt9an>. A fiscal analysis in Maryland revealed that the potential loss of revenue did not materially affect state and local finances. DEP'T OF LEGIS. SERVS., MD. GEN. ASSEMBLY, 2020 SESSION, FISCAL AND POLICY NOTE FOR HB 36 (2020), <https://trackbill.com/bill/maryland-house-bill-36-juvenile-proceedings-fines-fees-and-costs/1786966>.

²⁶ *See* OR. JUD. DEP'T, COURT ORDERED FINANCIAL OBLIGATIONS: IMPOSITION, COLLECTION, AND DISTRIBUTION 12 (2018), <https://berkeley.app.box.com/s/b5f21m57yr12gqbl9nxynfehdb4iegm4> (stating that “[a]fter year 5, collection drops to less than 10%” and “debt . . . older than 5 years [is] virtually uncollectable”).

²⁷ *Bearden v. Georgia*, 461 U.S. 660, 661 (1983).

²⁸ DOJ ADVISORY, *supra* note 1, at 2.

²⁹ *Montgomery v. Louisiana*, 136 S. Ct. 718, 733 (2016) (quoting *Miller v. Alabama*, 132 S. Ct. 2455, 2464 (2012)).

³⁰ Statement of Interest of the United States, *N.P. v. State*, No. 2014-CV-241025 (Ga. Super. Ct. Mar. 13, 2015), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/13/np_v_state_of_georgia_usa_statement_of_interest.pdf.

³¹ NAT'L JUV. DEF. CTR., ACCESS DENIED: A NATIONAL SNAPSHOT OF STATES' FAILURE TO PROTECT CHILDREN'S RIGHT TO COUNSEL 22-23 (2017) [hereinafter ACCESS DENIED].

³² JESSICA FEIERMAN ET AL., JUV. L. CTR., THE PRICE OF JUSTICE: THE HIGH COST OF “FREE” COUNSEL FOR YOUTH IN THE JUVENILE JUSTICE SYSTEM (2018).

³³ *Id.* at 11.

³⁴ *Id.*

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- ³⁵ *Bearden v. Georgia*, 461 U.S. 660, 664 (1983).
- ³⁶ *Williams v. Illinois*, 399 U.S. 235 (1970).
- ³⁷ *United States v. Jackson*, 390 U.S. 570 (1968).
- ³⁸ *James v. Strange*, 407 U.S. 128 (1972).
- ³⁹ *Jackson*, 390 U.S. at 582 (citations omitted).
- ⁴⁰ See, e.g., *Griffin v. Illinois*, 351 U.S. 12, 19 (1956) (“There can be no equal justice when the kind of trial a man gets depends on the amount of money he has.”).
- ⁴¹ See *Strange*, 407 U.S. 128 (court strikes the recoupment scheme as unconstitutional because the terms of the debt imposed were so severe as to be discriminatory); *Fuller v. Oregon*, 417 U.S. 40 (1974) (requiring an adult to later reimburse the state did not create undue pressure because the legislation was “tailored to impose an obligation only upon those with a foreseeable ability to meet it, and to enforce that obligation only against those who actually become able to meet it without hardship,” in contrast to unconstitutional statutes that chilled constitutional rights by penalizing those who choose to exercise such rights).
- ⁴² 387 U.S. 1, 36 (1967).
- ⁴³ *Id.* See also *Powell v. Alabama*, 287 U.S. 45, 71 (1932) (given “their youth . . . the necessity of counsel was so vital and imperative that the failure of the trial court to make an effective appointment of counsel was likewise a denial of due process within the meaning of the Fourteenth Amendment”).
- ⁴⁴ See Marsha Levick & Neha Desai, *Still Waiting: The Elusive Quest to Ensure Juveniles a Constitutional Right to Counsel at All Stages of the Juvenile Court Process*, 60 RUTGERS L. REV. 175, 182-83 (2007) (citing *In re Gault*, 387 U.S. at 19-20 (stating that the absence of the fundamental requirements of due process has resulted in unfairness to individuals); *Kent v. United States*, 383 U.S. 541, 553 (1966) (describing the basic requirements of due process and fairness in juvenile courts); *McKeiver v. Pennsylvania*, 403 U.S. 528, 543 (1971) (explaining that the “applicable due process standard in juvenile proceedings . . . is fundamental fairness”).
- ⁴⁵ This conflict may even occur when the cost is technically assessed to the youth rather than the parent, as the limited financial means of young people mean their parents will likely be the ones paying the bill.
- ⁴⁶ See e.g. COAL. FOR JUV. JUST., NATIONAL STANDARDS FOR THE CARE OF YOUTH CHARGED WITH STATUS OFFENSES 7 (2013), <http://juvjustice.org/sites/default/files/resource-files/National%20Standards%202015%20WEB.pdf>.
- ⁴⁷ *Id.* at 8 (“[E]very year, state and local policies and practice result in the locked detention of thousands of youth charged only with status offenses.”).
- ⁴⁸ See, e.g., *Iowa v. Tovar*, 541 U.S. 77, 81 (2004) (“Waiver of the right to counsel, as of constitutional rights in the criminal process generally, must be a ‘knowing, intelligent ac[t] done with sufficient awareness of the relevant circumstances.’”) (quoting *Brady v. United States*, 397 U.S. 742, 748 (1970)); *Schneekloth v. Bustamonte*, 412 U.S. 218, 238 (1973) (noting that the “knowing and intelligent” standard also applies to waiver of counsel in juvenile proceedings).
- ⁴⁹ *Haley v. Ohio*, 332 U.S. 596, 600 (1948) (holding unconstitutional a confession of a young person without counsel).
- ⁵⁰ *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011) (citations and quotations omitted).
- ⁵¹ *Miller v. Alabama*, 567 U.S. 460, 471 (2012) (alterations in original) (quoting *Roper v. Simmons*, 543 U.S. 551, 569 (2005)). See also *Bellotti v. Baird*, 443 U.S. 622, 635 (1979) (“during the formative years of childhood and adolescence, minors often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them”). It is well-documented that “[c]hildren have a ‘lack of maturity and an underdeveloped sense of responsibility,’ leading to recklessness, impulsivity, and heedless risktaking.” *Montgomery v. Louisiana*, 136 S. Ct. 718, 733 (2016) (quoting *Miller*, 567 U.S. at 471).
- ⁵² Youth susceptibility to external pressure is also likely to be particularly high as they interact with numerous authority figures throughout juvenile justice proceedings such as police officers, prosecutors, judges, etc. Without legal counsel helping them navigate these interactions and the legal process, it is very likely that young people may be coerced into decisions or actions that do not serve them and lead to further curtailment of their procedural rights.
- ⁵³ ACCESS DENIED, *supra* note 31, at 26. The National Council of Juvenile and Family Court Judges has also cautioned judges on the risks of accepting counsel waivers from youth: “On the rare occasion when the court accepts a waiver of the right to counsel, the court should take steps to ensure that the youth is fully informed of the consequences of that decision. A waiver of counsel should only be accepted after the youth has consulted with an attorney about the

decision and continues to desire to waive the right.” NAT’L COUNCIL OF JUV. & FAM. CT. JUDGES, ENHANCED JUVENILE DELINQUENCY GUIDELINES: CHAPTER XII 26 (2018), https://www.ncjfcj.org/wp-content/uploads/2021/03/NCJFCJ_Enhanced_Juvenile_Justice_Guidelines_Final-1.pdf.

⁵⁴ *United States v. Jackson*, 390 U.S. 570, 581 (1968).

⁵⁵ *Timbs v. Indiana*, 139 S. Ct. 682, 689 (2019) (citation omitted).

⁵⁶ See *Roper v. Simmons*, 543 U.S. 551, 575 (2005) (holding the death penalty disproportionate when imposed on youth); *Graham v. Florida*, 560 U.S. 48, 82 (2010) (sentencing a young person who committed a non-homicide offense to life without parole violates the Eighth Amendment); *Miller v. Alabama*, 567 U.S. 460, 465 (2012) (sentencing a young person to mandatory life imprisonment without parole violates the Eighth Amendment).

⁵⁷ *Graham*, 560 U.S. at 70-71; *Miller*, 567 U.S. at 475.

⁵⁸ *Miller*, 567 U.S. at 475 (quoting *Graham*, 560 U.S. at 70). Adult penalties are “the same . . . in name only” when applied to young people and require a “distinctive set of legal rules” to determine how severely they punish youth.

Id.

⁵⁹ Alex R. Piquero & Wesley G. Jennings, Research Note, *Justice System-Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, 15 YOUTH VIOLENCE & JUV. JUST. 325, 333-34 (2017).

⁶⁰ See DEBTORS’ PRISON FOR KIDS, *supra* note 2, at 7.

⁶¹ Piquero & Jennings, *supra* note 59, at 333-34.

⁶² See, e.g., ALA. CODE § 12-15-117(c) (2012); FLA. STAT. ANN. § 985.0301(5)(d) (West 2015); MO. STAT. ANN. § 211.185(11) (West 1995); OKLA. STAT. ANN. tit. 10A, § 2-7-504(D) (West 2017); WASH. REV. CODE ANN. § 13.40.300(3)(e) (West 2018).

⁶³ See generally DEBTORS’ PRISON FOR KIDS, *supra* note 2, at 23-24; see also, e.g., FLA. STAT. ANN. § 938.29(2)(a)(2) (West 2010); ME. REV. STAT. ANN. tit. 15, § 3314(7) (West 2019); MINN. STAT. ANN. § 260B.331(b) (West 2013); N.J. STAT. ANN. § 2A:158A-17(a) (West 2013); S.D. CODIFIED LAWS § 26-7A-32 (2002).

⁶⁴ See MASS. GEN. LAWS ANN. ch. 211D, § 2A(h) (West 2018); TENN. CODE ANN. § 40-24105(b)(1) (West 2018).

⁶⁵ DEBTORS’ PRISON FOR KIDS, *supra* note 2, at 23.

⁶⁶ See generally *id.* at 23-24; see also, e.g., ARIZ. REV. STAT. ANN. § 8-349(B)(5) (2002); KAN. STAT. ANN. § 38-2312(e)(2) (West 2018).

⁶⁷ See RIYA SAHA SHAH & JEAN STROUT, FUTURE INTERRUPTED: THE COLLATERAL DAMAGE CAUSED BY PROLIFERATION OF JUVENILE RECORDS 9-11 (2016), <http://juvenilerecords.ilc.org/juvenilerecords/documents/publications/future-interrupted.pdf>.

⁶⁸ *Timbs v. Indiana*, 139 S. Ct. 682 (2019).

⁶⁹ *Id.* at 688-89.

⁷⁰ See, e.g., Piquero, *supra* note 16, at 59-61. See also CARL E. POPE ET AL., U.S. DEP’T OF JUST., DISPROPORTIONATE MINORITY CONFINEMENT: A REVIEW OF THE RESEARCH LITERATURE FROM 1989 THROUGH 2001, at 5 (2002) (25 of 34 studies comparing race and juvenile justice outcomes across the nation reported “race effects” leading to poorer outcomes for youth of color); JAMES BELL & LAURA JOHN RIDOLFI, W. HAYWOOD BURNS INST., ADORATION OF THE QUESTION: REFLECTIONS ON THE FAILURE TO REDUCE RACIAL & ETHNIC DISPARITIES IN THE JUVENILE JUSTICE SYSTEM 5-8 (2008) (noting disparate enforcement and punishment of Black, Indigenous, and Latinx youth).

⁷¹ OJJDP STATISTICAL BRIEFING BOOK, https://www.ojjdp.gov/ojstatbb/special_topics/qa11601.asp?qaDate=2018.

⁷² *Id.*

⁷³ *Id.* And conversely, the diversion rate for Black, Latinx, and Indigenous youth was less than the diversion rate for cases involving white youth. *Id.*

⁷⁴ See, e.g., HIGH PAIN, NO GAIN, *supra* note 12, at 9.

⁷⁵ Piquero & Jennings, *supra* note 59, at 333-34.

⁷⁶ Cedric Herring & Loren Henderson, *Wealth Inequality in Black and White: Cultural and Structural Sources of the Racial Wealth Gap*, 8 RACE & SOC. PROBS. 4, 16 (2016).

⁷⁷ The racially disparate impact of fines and fees imposed by federally-funded courts may also violate Title VI of the Civil Rights Act. DOJ ADVISORY, *supra* note 1, at 3-5.