A Message from JJI

This will be a momentous year. Throughout 2014, we will mark the anniversary of a number of critical developments along the march towards fair treatment of all our children:

- **Fiftieth Anniversary** The U.S. Supreme Court extended the right to counsel and other due process protections to children in delinquency cases in the landmark decision of *In re Gault*. The *Gault* case involved a fifteen year old who was confined in a state juvenile facility until age 21 for telephone harassment. The U.S. Supreme Court held that due process protections - notice of charges, the right against self-incrimination, the right to confrontation, and the right to counsel - extend to children facing delinquency charges.

- **Fortieth Anniversary** The U.S. Congress passed the Juvenile Justice and Delinquency Protection Act. The original law included two core protections – that status offenders (runaways, curfew violators, etc.) should not be detained, and that children should be sight and sound separated from adults in adult jails and lockups. A Jail Removal protection was added in 1980 to remind states that children should not be in adult jails and lockups except under very limited circumstances. Finally, the Act was expanded in 1992 to include a requirement that states address the overrepresentation of children of color in the justice system. With the JJDPA, came the creation of the federal Office of Juvenile Justice and Delinquency Prevention, and a small pot of federal dollars for states to use to develop innovative prevention and intervention programs and strategies.

- **Twenty-fifth Anniversary** The United Nations General Assembly adopted the Convention on the Rights of the Child. The CRC banned extreme punishments of the death penalty and life without parole, required counsel and due process in juvenile proceedings, set 18 as the minimum age for adult court jurisdiction, required nations to adopt a reasonable minimum age of jurisdiction, and clarified that incarceration was to be a last resort for as short a time as possible within humane facilities. The Convention was a consensus document with the participation of the United States, and stresses that children should not be in adult jails and lockups except under very limited circumstances. Finally, the Act was expanded in 1992 to include a requirement that states address the overrepresentation of children of color in the justice system. With the JJDP, came the creation of the federal Office of Juvenile Justice and Delinquency Prevention, and a small pot of federal dollars for states to use to develop innovative prevention and intervention programs and strategies.

In this year, we must aim to incorporate all of the internationally recognized human rights of children in our state and national laws governing justice systems for children in conflict with the law. Along with most other developed nations in the world, we must ensure our children have the protection of an attorney when first questioned by authorities; we must ensure that adult trial of a child is an “exceptional” decision made on an individualized basis with due process protections; and we must ensure that incarceration is used as a last resort for as short a time as possible in humane facilities. We can – and must – accomplish these minimal protections for our children. The outcomes for our children will be better, and our communities will be safer, with these minimal protections solidly in place.

**Elizabeth Clarke, President**
Youth Incarceration in Illinois
Where do we go from here?
JJI’s Recommendations

The recent reports from experts in the class action R.J. v. Bishop on conditions in the Department of Juvenile Justice are a sobering reminder that incarceration is a failed rehabilitation policy, both in cost by taxpayers and in outcomes. While it remains crucial to ensure separation of juvenile from adult corrections, after more than six years, and a lengthy list of reform efforts under two administrations along with increased funding from the legislature for aftercare, the reports document little progress and sobering reminders that for those very few youth who might need to be incarcerated, our existing facilities fall far short of conditions that foster rehabilitation.

There are two immediate concerns – the safety of the youth within the facilities currently, and limiting the use of incarceration (including length of stay and parole revocation returns) going forward. More dollars are not necessary. Rather Illinois should follow the model of other states facing similar challenges and vigorously continue to realign its resources to ensure incarceration is used only as a last resort. And, Illinois should shift savings to community-based services as an alternative to and step down from confinement.

Fortunately, Illinois can look to many examples around the country of successful reforms in limiting the use of incarceration and shifting savings to community based alternatives, in the wake of similar conditions and sexual abuse scandals in juvenile facilities (see below). With Redeploy Illinois, we have begun that journey of fiscal realignment. Illinois should expand this program to ensure it is available for every youth. The legislature increased funding to expand Redeploy Illinois and additional jurisdictions have already pursued implementation. Specific legislation was passed that allows Cook County to implement the program in targeted regions. If Cook implements Redeploy Illinois, further reductions in DJJ would be achieved – over 40% of the commitments to state juvenile prison come from Cook County.

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Close the door to misdemeanors commitments

**Georgia** – Beginning on January 1st, incarceration is limited to felony-related offenses. Ordering a child to an institution, camp, or other facility for delinquent children occurs only if the child is adjudicated for a delinquent act involving a felony violation or a misdemeanor violation if the child has had a prior felony adjudication.

**Ohio** – Closed the door to misdemeanors commitments over thirty years ago (in 1981), setting aside a small pot of funds for each county in return for eliminating misdemeanor commitments. In response to class action conditions litigation, Ohio built into the remedial plan a series of principles stressing the need to use incarceration as a last resort.

**Florida** – Florida courts vastly restricted the ability to commit youth to residential facilities without felony convictions. This 2011 change was based on the high cost and ineffectiveness of incarceration and benefits of keeping youth connected with family and community.

**Texas** – in response to a high profile abuse scandal, the Texas Legislature passed a reform bill in 2007 (S.B. 103) which barred commitment of misdemeanants, and reduced the upper age of juvenile court jurisdiction from 21 to 19. It provided counties with financial incentives to manage delinquent youth locally.

**Mississippi** – In response to class action litigation over inadequate conditions, law change in 2010 state that no child adjudicated for a nonviolent felony or fewer than 3 misdemeanor adjudications may be committed to a state training school.

**California** – Senate Bill 81 (2008) limited incarceration to violent juvenile offenders, closing the door to misdemeanants and low-level felonies, in response to a wave of reports of abusive conditions and concerns over litigation.

As a result, state incarceration has decreased from an average of 10,000 juveniles to 1,000.

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For information about R.J. v. Bishop class action lawsuit and links to the expert reports, visit: [http://jjustice.org/aclu-djj/](http://jjustice.org/aclu-djj/)
Evaluate and classify in local community
Youth in Illinois are committed to DJJ, then spend lengthy periods of time being “evaluated” and assigned to a facility. In contrast, Missouri conducts the initial evaluation in the local community (where the family can be involved), then decides based on the assessment if confinement is necessary and places the minor accordingly. Shifting the evaluation to the community rather than a “reception and classification” facility would save several weeks of incarceration in each case.

Treat youth locally
Substance abuse and other programs in the community help, rather than holding youth in facilities waiting for treatment in the facility. Missouri, the most successful juvenile “deep-end” system in the nation has the bulk of its resources invested in community-based alternatives, so youth never have to sit in prison waiting for treatment.

End jurisdiction at age 19
Rather than allowing youth to be readmitted for parole violations until 21, Illinois could follow the Texas reform that capped juvenile court jurisdiction at age 19 in 2007.

Provide Bed Capacity Caps
The state of Colorado caps statewide bed capacity – when the cap is exceeded, the state must do an emergency release. In 2011, the statewide cap was reduced.

Eliminate Prisoner Review Board (PRB)
Review and approval in order to release. This would eliminate the current dilemma of youth ready for release but waiting until a PRB member is available at the facility for a review. This is in line with the practice in most states. In fact, Illinois is among only a handful of states in the nation using an adult parole board (with some members with juvenile experience) to oversee juvenile release and revocation decisions. In most states, either the court or the juvenile justice agency makes the release/revocation decisions.

Require regular juvenile court reviews of placement
Similar to permanency hearings for child welfare court proceedings, the sentencing court judge could review and modify custody. A reform in the state of Georgia in 2011 allows youth to motion the juvenile court for modification of custody based on good behavior.

Close the Door to Parole Violation Returns

Recommitment to a juvenile facility should be limited to a juvenile court finding of guilt on a new offense and a court determination that recommitment is necessary.

In FY12, nearly half (49%) of overall admissions to Dept. of Juvenile Justice facilities came in through the “back-door” as technical parole violator returns.

This is a dramatic increase from the early 1990’s when juvenile parole violator returns comprised less than 20% of overall admissions. The rate of DJJ Admissions has continued to decrease for both non-violent and violent offenses, while “back-door” re-entry has not seen a similar decrease. (Note: the technical violation line has remained relatively constant despite decreases in admissions for new offenses.)
**House Bill 83 [Public Act 97-0362]**

In 2011, House Bill 83 was signed into law with an effective date of January 1, 2012. This amended the Juvenile Court Act to encourage courts to comprehensively explore community alternatives prior to sentencing youth to incarceration in the Illinois Department of Juvenile Justice (IDJJ).

Specifically, HB83 established the least restrictive alternative standard, meaning the courts must find that “reasonable efforts have been made to prevent or eliminate the need for the minor to be removed from the home, or reasonable efforts cannot, at this time, for good cause, prevent or eliminate the need for removal, and removal from home is in the best interests of the minor, the minor’s family, and the public.”

The decline in commitments across the state provides a prime example of strategic lawmaking translating into effective public policy outcomes. Laws such as these, in combination with allocation of resources which are evidenced-based and outcome-driven, promote fiscally responsible public safety.

**County Court Commitments Change FY11 to FY12**

Cook: Decreased from 489 to 436 (-10.8%).
Kane: Decreased from 25 to 12 (-52.0%)
Champaign: Decreased from 72 to 33 (-54.2%)
Sangamon: Decreased from 23 to 16 (-30.4%)

The complete public act can be viewed here: [http://goo.gl/bgxizE](http://goo.gl/bgxizE)

*Arrest Data: Retrieved from CHRI. Included are arrests of youth age 13-17. DJJ Data: From David Olson’s report. Included are court commitment of youth age <21. People age 18-21 accounted for about 5% of the court commitments.*
A Vision for the Future: Reimagining the System When Young People Come into Conflict with the Law

A Juvenile Justice Initiative Event
October 24, 2013

Distinguished Speakers Lead Discussion About Historic Transformation of the Juvenile Justice System

Katayoon Majd
Public Welfare Foundation

Laurie Garduque
John D. and Catherine T. MacArthur Foundation

Grace Hou
Woods Fund of Chicago

Thank you for joining us and for your commitment to reimagine a system of true justice for all of our young people in Illinois.

Listen to the Panel Discussion here: http://justice.org/visioning-conversation-video/
International Perspective: How We Measure Up

Is 2014 the year international law comes to our nation’s children?

This November will mark 25 years since the United Nations adopted the Convention on the Rights of the Child (UNCRC). The UNCRC is the most widely ratified international treaty incorporating comprehensive children’s human rights with the intent of protecting such rights for all children. The treaty’s 54 articles span from physical to socio-emotional protections. Article 37 specifically addresses protections in instances when a child is deprived of liberty with article 40 establishing parameters for juvenile justice.

Further guidance was provided in 1990 via the Rules for the Protection of Juveniles Deprived of Liberty. In recognition that children are vulnerable, the rules delineate enhanced protections for children in conflict with the law. First and foremost, these rules proclaim, “the juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.” Additionally, it states that minimum standards require sparing use of “deprivation of liberty” and only for “the minimum necessary period,” which should not preclude an opportunity for an early release.

While the U.S. played a key role in drafting the UNCRC, it still has yet to ratify this treaty. The reality is that our nation may become the lone nation still failing to ratify; the U.S. had been accompanied by South Sudan and Somalia until very recently. The legislative assembly of South Sudan - a nation less than 3 years old - moved to become the 194th nation to ratify in 2013. Somali President Hassan Sheikh Mohamud announced that Somalia - a nation struggling to have a functional government - plans to ratify in 2013.

Our children deserve to have their unique status as children protected - at the very least - in accordance with minimum human rights standards. Currently, we prosecute children (under 18) in adult courts, often without transfer hearings or respect to a minimum age of criminal culpability. We sentence them to disproportionately long adult sentences and allow solitary confinement of children as young as 13 years old.

All of these practices are rarely used outside the United States. We are the only nation that sentences its children to die in prison. Our nation should not be winning first place on any list for perpetrating injustice and violating the human rights of our children. This year our nation must step forward.

A Lesson from Abroad

A 2008 decision from the European Court of Human Rights in Saldez v. Turkey, held that a juvenile did not have a fair trial due to being denied a lawyer while he was interrogated by the police. This case has changed policy regarding police interrogations in Turkey and across Europe. Relying heavily on the UNCRC, the court stated:

“...one of the specific elements of the instant case was the applicant’s age. Having regard to a significant number of relevant international law materials concerning legal assistance to minors in police custody...the Court stresses the fundamental importance of providing access to a lawyer where the person in custody is a minor.” And further stated: “In sum, even though the applicant had the opportunity to challenge the evidence against him at the trial and subsequently on appeal, the absence of a lawyer while he was in police custody irretrievably affected his defence rights.”

Illinois should learn from this important international case and its implications for our juvenile justice system. Representation by a lawyer during a police interrogation can help stem the risk of self-incrimination and false confessions. Failure to provide counsel leads to more children – particularly minority children - proceeding through the juvenile justice system and the adult criminal justice system due to the automatic transfer of some cases to the adult criminal court. It is critical for children to have legal representation while in custody of the police.

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3 Id, Fundamental Perspective 1
4 Id, Fundamental Perspective 2
International Perspective: Japan v. United States
A Chat with Kanako Ishida, JJI Policy Research Analyst

Since I moved to the U.S. from Japan seven years ago, I have been asked repeatedly about comparisons between the two countries.

What are the biggest differences? It could be people themselves – people in the U.S. tend to speak their minds. It could be public transportation – subways, trains and bullet trains run precisely on time in Japan and a 30 second delay is a big deal.

Today, my response has changed. Now, I explain the significant differences between Japan and the States, in how children are defined and treated/ tried in the court systems. Invariably, I am asked many follow up questions.

Here are some of the most frequently asked questions:

Q: Who is considered as a child in Japan?

A: A person under the age of 20 (teenager) is considered a child. He or she is not allowed to smoke, drink, or vote. He or she would be tried as a child in family court if alleged to commit an offense (delinquent behavior).

Q: How old does a child have to be to be referred to family court? What are the upper and lower ages of delinquency jurisdiction?

A: Youth can be referred to family court and tried as a child between the ages of 14 to 19. If a child younger than 14 years old commits an offense (e.g., theft), he or she is referred to the child welfare agency, not held criminally responsible.

Q: Is a child ever tried in adult court in Japan?

A: In rare instances and with increased protections if it does occur. Japan does have a discretionary transfer law that may allow a child 14 or older to face an adult trial. However, this can only be decided by a family court judge’s careful review of appropriateness. That is, all the youth age 14 to 19 must begin in family court. Unlike the states, no youth under 20 would go straight to adult court, even if charged with a murder. In the limited circumstances when the family court judge decides to send the youth to adult court, the adult court judge could return the youth back to family court. This type of safety valve does not exist in Illinois. In fact, kids here are categorically excluded from juvenile court for certain offenses and automatically tried as an adult - no questions asked.

Q: Would a child tried as an adult be treated exactly same as an adult?

A: No. Even if a child is tried in adult court, the maximum sentence a child would receive is less harsh than as adult (20 and older). If a youth gets an indeterminate sentence, the maximum possible term is 10 years, and if a youth is convicted of a crime that could impose a life sentence with a possibility of parole on an adult, he or she would get a determinate sentence instead and maximum term is 15 years. Also, the child’s confidentiality must be protected. Media is not allowed to reveal the youth’s name or school.
On November 22, 2013, the Juvenile Justice Initiative hosted an event with award-winning actor and author Hill Harper. Mr. Harper began the day with a discussion about mass incarceration and book signing at the Cook County Juvenile Court. Over 75 people attended including lawyers, probation officers, advocates, educators, community-based service providers, and many more.

Afterwards, Mr. Harper visited the youth of the Cook County Juvenile Temporary Detention Center (JTDC). He spoke to over sixty JTDC residents about the importance of taking personal responsibility for their actions, the benefits of making detailed plans, and the significance of education and support systems. JTDC residents had the opportunity to ask Mr. Harper questions and to seek advice. Residents spent a great deal of time searching for answers from Mr. Harper on how to make significant changes in their lives. At the conclusion of his presentation, Mr. Harper took the time to greet and speak individually with each JTDC resident.

JJI donated fifty of Mr. Harper’s new book, *Letters to an Incarcerated Brother* to the JTDC for the residents and for use in the classroom.
IDJJ Abuse Reporting Hotline Active

During the Illinois Juvenile Justice Commission meeting held on January 15, 2014, IDJJ Director Bishop announced that an official hotline to report abuse began for IDJJ residents through the Illinois Dept. Children & Family Services (DCFS) hotline. The Director shared additional information at the January 16, 2014 DJJ Advisory Board. He informed attendees that notifications have been made to IDJJ residents and notifications will also be sent to parents and guardians. The hotline number is 1 (800) 25-ABUSE.

Report Commissioned by IDJJ Released

The Illinois Dept of Juvenile Justice (IDJJ) released the specially commissioned report to evaluate sexual victimization in Illinois juvenile prisons. The Kinsale Management Consulting’s review was completed as one of the actions outlined by IDJJ Director Bishop in response to concerns raised by the U.S. Dept. of Justice’s June report.

A press release from IDJJ Director Bishop announced the review and an update on other actions being taken by IDJJ. The Director stated that there is “zero tolerance for any type of sexual abuse, harassment or victimization,” and he emphasized that “the recommendations included in the report will be used to bolster the Department’s efforts to protect youth committed to our care.”

2) DJJ Press Release: http://www.illinois.gov/idjj/Pages/News10232013.aspx

John Howard Association Monitoring of IYC Warrenville

The John Howard Association’s Juvenile Justice Project released its monitoring report about the Illinois Department of Juvenile Justice’s Warrenville site in January. The Illinois Youth Center (IYC) is the female facility located in DuPage County. At the time of the JHA visit, the population was 46 girls with the average age of 17.1 years. The average cost per inmate is reported to be $177, 900 annually.

JHA’s key observations and the full report can be viewed here: http://thejha.org/warrenville

U.S. Dept of Education and Dept of Justice Jointly Release Guide to Address School-to-Prison Pipeline

In an effort to rollback zero tolerance policies, school push out, and the school-to-prison pipeline, the U.S. Dept of Ed & U.S. Dept of Justice released guidance resources to address disparate school disciplinary practices & policies. Detailed explanation is also included about enforcement of Title IV of the Civil Rights Act of 1964.

View full document: http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.pdf
Juvenile Justice Issues in the News
A Sampling of National and Illinois Media

Prosecuting Children as Adults

New York Times
Juniors Facing Lifelong Terms Despite Rulings
January 19, 2014
Many states have yet to take meaningful action as a result of milestone SCOTUS rulings (2010 and 2012) that mandated mandatory life sentences for juveniles are less culpable than adults and is akin to the death penalty. The Illinois Supreme Court heard oral arguments in January.
Read more: http://goo.gl/deXb7E

Chicago Tribune
Mandatory life sentences for juveniles at issue before state high court
January 15, 2014
In Illinois, 37-year-old inmate asks justices to retroactively apply new standard to his case. The case as an example of what is known as "the other death penalty." The Illinois Supreme Court heard oral arguments in January.
Read more: http://goo.gl/i29AnF

NECN.com
Broadside: Juveniles convicted of murder can't be sentenced to life without parole
January 10, 2014
The Massachusetts Supreme Judicial Court faced decision about juveniles convicted of murder and the sentence of life without parole. The court ruled such a punishment violates the Massachusetts constitution and is akin to the death penalty.
Read more: http://goo.gl/o0TDaa

Northern Public Radio
Lawmaker Wants Second Chance For Juvenile Sentences
December 30, 2013
Illinois House Leader, Barbara Flynn Currie has proposed a new law which would affect young people who receive long prison sentences. The lawmaker filed this bill to address a federal court ban on lifelong sentences for juveniles.
Read more: http://goo.gl/l7Ual1

Journal-News
Number of juvenile bindovers to adult court dropping
December 23, 2013
Ohio prosecution of children in adult criminal courts has decreased. In 2011, a new law took effect, which provided a safety valve option of the reverse court.
Read more: http://goo.gl/JNalCA

Journal Gazette
Justice – delayed: 12-year-old’s adult sentencing leads to new law
December 4, 2013
A senseless, horrific crime initially brought a hasty and ill-considered judicial response. Now, all sides seem to agree that justice has been done. Score one for the Indiana Legislature and child advocates.
Read more: http://goo.gl/q55Ydy

The Detroit News
Judge prods Michigan to consider parole for ‘juvenile lifers’
November 26, 2013
A Michigan judge calls on the state to comply with the requirement established by the Miller U.S. Supreme Court ruling. He stated that Michigan must consider paroleing its 350 prisoners serving life sentences for crimes they committed as juveniles recognizing that retroactivity should apply and reviews must be held.
Read more: http://goo.gl/XzURUF

Boston.com
SJC: Judges can toss weak cases to prevent teenagers from getting criminal record
November 26, 2013
In a 4-2 ruling, the Massachusetts rules that judges must have the power to act in what they consider to be the “best interests of the child” because state law treats juvenile offenders not as criminals, but as children in need of direction.
Read more: http://goo.gl/1vhH0X

School-to-Prison Pipeline
This January, the Obama administration urged the nation’s schools to abandon what it described as overly zealous discipline policies that send students to court instead of the principal’s office. Civil rights leaders have long identified the disparate impact of these policies. Reappraisals of “zero tolerance” discipline are needed to address research on suspensions and expulsion. Related articles are listed below.

ABC News
Gov’t: Most School Discipline Need Not Mean Court
January 8, 2014
Read more: http://goo.gl/X19bb

Catalyst Chicago
More transparency on suspensions and expulsions, but racial disparity lingers
January 8, 2014
New data release from Chicago Public Schools resulting from activists battle. Information for individual schools and provide detailed breakdowns by demographics, including race, and disability.
Read more: http://goo.gl/BTfwY3

Al Jazeera America
Activists push for juvenile justice system reforms
January 6, 2014
Read more: http://goo.gl/bj6eDi

The New York Times
Zero Tolerance, Reconsidered
January 5, 2014
Read more: http://goo.gl/OpD2ct

Time Warner News, NY1
Advocates Say Too Many Students Are Being Brought to Precincts for Minor Infractions
January 1, 2014
New York Mayor Bill de Blasio reports reforms will be based on suggestions made by the Justice Department. Read more: http://goo.gl/oomLo0
Support JJI’s Juvenile Justice Reform Efforts

The Juvenile Justice Initiative is an independent, non-governmental advocacy entity that exists on contributions from foundations and individuals. Through the printing of research reports, newsletters, and a website, as well as the provision of workshops and conferences, we have been able to share current research and legislative information. Please consider a donation to JJI so we can keep providing you with timely information on juvenile justice issues. In an effort to update our database, please fill out the form below and return it with your donation. Please call us if you have any questions at: (847) 864-1567.

Juvenile Justice Initiative Donation Form

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Or donate securely online using PayPal - www.jjustice.org

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Next Session: How does a Child end up Tried as an Adult in Illinois
Presented by Herschella Conyers of the University of Chicago Law School
February 20, 2014 from 2:00 – 3:00 p.m.

Cost: $35/session. Session costs includes supplementary materials that will be sent out online. Limited partial scholarships are available to attorneys who demonstrate financial need. Email us to apply: JJICLE@jjustice.org

CLE Credits: 1 hour per session.

Registration: Click here to register online. To avoid online processing fees, you may complete JJI CLE Registration Form online and send a check made payable to Juvenile Justice Initiative to:
Juvenile Justice Initiative
518 Davis Street, Suite 211
Evanston, IL 60201

After your check is received we will send you the webinar login information.

Questions? Email us JJICLE@jjustice.org
NEW RESOURCE GUIDES ILLINOIS YOUTH WITH JUVENILE RECORD EXPUNGEMENT PROCESS

VISIT http://www.expunge.io

Welcome to Expunge.io for Illinois

So, what's juvenile expungement?
Juvenile expungement is a process that erases an arrest and/or court record.

What is on a juvenile record?
1. ALL arrests (even if you were never charged) before you turn 17
2. Almost all arrests before you turn 16
3. Juvenile court cases before you turn 16

How can juvenile expungement help me?
Expungement can make it easier to get a job! Expungement can also remove barriers to school admission, housing, professional licenses and military service.

I have a juvenile arrest or court record in Illinois, and I want to know if I can expunge it