SUMMARY: USA
The United States (US) is the only United Nations member state that has not ratified the United Nations Convention of the Rights of the Child (UN CRC). The report upon which this summary is based focuses on United States (US) Federal law, and the state of California.

It is important to note that the US has the highest youth incarceration and confinement rate in the industrialized world, although this rate is declining rapidly.

Youth imprisonment in the US dropped 50% between 1997-2016, coinciding with an even steeper decline in juvenile arrests: nationally, the arrest rates of juveniles declined by 67% between 2006 and 2019.

This steep drop in juvenile arrest and incarceration in the US is the result of many overlapping trends, including a shift towards deinstitutionalization, expansion of due process and other rights, a decreased emphasis on truancy and other low-level offenses, dramatically lower rates of childhood lead exposure, and innovative alternatives to the criminal justice system for youth.
Q: How is the juvenile justice system structured?

The US is a complex country, with no single “juvenile justice system,” but instead is made up of a patchwork of laws, policies, agencies, and programs at the federal, state, and county levels.

Q: How is a juvenile defined by law? What are the laws around sentencing for juveniles?

US federal law defines a juvenile as a person under the age of 18 at the time they are alleged to have violated the law and there is no minimum age for federal jurisdiction. California defines juveniles as between ages 12-18 although there are exceptions. In general, US laws and practices do not meet the UN CRC standards in a number of areas for sentencing. For example, although separate courts for youth exist in many jurisdictions, US federal law and all fifty states allow for youth to be tried as adults. US federal law actually mandates trying youth over age 16 as adults if they are alleged to have committed certain serious or violent crimes.

Q: What rights do youth have, what are the laws that apply to them as compared to adults?

Youth generally have the same rights as adults, which include many of the UN CRC rights, such as the right to silence, to a lawyer, to be considered innocent until proven guilty, etc. While there are laws that provide for separate treatment of youth versus adults, there are many exceptions and youth in many US states can be treated, tried and sentenced as adults. Even when youth are tried separately from adults, they do not have many special rights, and are without some key federal constitutional rights of adults. Additionally, the US legal system has no provisions for engaging families in the legal process.

The US has a near total lack of reintegration planning for youth released from detention facilities. Maybe as a result, the US has among the highest rates of recidivism in the world. According to a 2017 report, 74% of youth released from California youth detention centers were re-arrested and 54% were convicted of another crime.

The US federal government has recognized that better support for re-integration is necessary to reduce recidivism and increase public safety, and is directing funding to states and counties to support reentry programs for youth.
Q: How does the juvenile justice system ensure the active participation of the youth themselves and their families, throughout the legal process?

Unfortunately, the juvenile justice system in the United States was not designed to encourage participation of families. Historically, the juvenile justice system in the United States has placed the state in the role of ‘parent’ with respect to children in conflict with the law. This leaves little room for actual families, who feel they are treated as outsiders and blamed for their children’s problems, rather than viewed as assets.

Both families and providers are working to increase family engagement in juvenile justice across the country, but the US federal government cites family engagement as one of its biggest challenges and meaningful engagement is limited.

Q: How does the state respond to key considerations in juvenile justice including overrepresentation?

The area where the US is most out of line with the UN CRC is racial and ethnic inequality. Black, Latino and Indigenous youth are highly over-represented in all areas of the legal system.

While 14% of all youth under 18 in the US are Black, 42% of boys and 35% of girls in juvenile facilities are Black.
There are many interesting and positive programs aiming to improve the treatment of youth in conflict with the law across the US. Given the size of the country and the independence of states, these are not coordinated, but there are attempts to copy those that are working best. Of note, some of these new juvenile justice reform policies and programs are motivated by budget savings, as they save money for state and local governments compared to the cost of youth incarceration.24

Closing juvenile prisons: California is undertaking major changes to its entire juvenile justice system. It is closing all of its juvenile prisons and shifting the funding to community-based and trauma-informed services.25

Moving youth out of jails: Los Angeles County (California) has renamed its juvenile probation department the Department of Youth Development and beginning in 2021, youth sentenced to confinement will no longer be housed in juvenile jails but instead will be placed in small local “Healing Centers” staffed with social workers.26

Diversion programs operate after youth are arrested and keep them out of the criminal courts. Programs in two US counties successfully diverted 60% and 82% of cases.27
Youth Courts differ from the traditional court system in that it is typically a group of peers who make decisions about the outcome of a case, rather than adults. California youth courts successfully divert roughly 9% of cases from the juvenile justice system.30

Mental Health Integration: a county in Illinois is providing therapy to youth in detention and their families, attempting to increase social skills, manage anger, improve family communication, and create community re-entry plans for each youth. This was shown to improve school attendance and reduce recidivism.31 Virginia has a similar statewide program which also includes help with housing, transportation, and college education.32

Promoting Family Engagement:
Restorative justice and community conferencing programs at the state and local levels have successfully increased participation of families in the juvenile justice process.33 The state of Indiana conducted a formal survey of families of youth in detention, and the results led to an increase in family visitation in juvenile detention facilities and formation of a family council to promote more social support for the youth.34 More states are now using the survey to gather information about family engagement.35

Restorative Community Conferencing aims to remove youth from the criminal justice system while simultaneously meeting the needs of people harmed. Juvenile offenders meet with the person they harmed, their family, and their community members in facilitated dialogues, and collectively develop an agreement for the young person to repair harm, address root causes, and make amends.28 San Francisco County in California saw a 44% reduction in recidivism for youth who went through this program.29
RECOMMENDATIONS FOR ANALYSIS AND ACTION

Recommendations for steps that could improve the situation for youth in conflict with the law in the US include:

- **Research the new changes in California**, and develop a best practices guide to standardize between the many counties in the state. Document cost savings from California’s new policies.

- **Provide more federal funding for diversion, mental health restorative justice, and other innovative programs**. Although diversion and other programs save money over time, states need help to pay for staff and expenses to start these programs.

- **Implement more restorative justice in schools**, in order to reduce suspensions and expulsions from school which often lead to criminal arrests.

- **Pass legislation to address disproportionate minority contact in the juvenile justice system**

- **Develop stronger partnerships between local mental health systems and juvenile justice professionals**, including training and collaboration.

- **Identify and replicate successful family engagement programs**.

- **Increase specialized and standardized training for all juvenile justice system professionals**.

- **Target efforts to recruit and retain Black, Latino, and American Indian juvenile justice professionals** in order to better reflect youth populations over-represented in the juvenile justice system.
ENDNOTES


4 For further discussion of possible explanations, see Tucker, J., “Why the US has seen a sharp drop in violent youth crime.” San Francisco Chronicle. March 23, 2019.

5 18 USC § 5031.

6 For further context on advocacy efforts to establish a minimum jurisdictional age, see Youth Leaders for Correctional Justice, “Statement on Raising the Minimum Age of Juvenile Jurisdiction.” Retrieved from: https://yclj.org/minimum-age

7 CA WIC § 602


9 Human Impact Partners, “Juvenile InJustice: Charging Youth as Adults is Ineffective, Biased, and Harmful.” February 2017, at page ii.

10 18 USC § 5032

11 Human Impact Partners, “Juvenile InJustice: Charging Youth as Adults is Ineffective, Biased, and Harmful.” February 2017, at page ii.


19 ibid


33 Bazemore, supra.


35 ibid
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