

# EVALUATING JUVENILE JUSTICE — IN OHIO —

## A REPORT CARD

SUBJECT	2011 GRADE	2008 GRADE
Waiver of Counsel	Incomplete	Incomplete
Rates of Juvenile Detention and Commitment	B	C
Disproportionate Minority Confinement (DMC)	D	Incomplete
Transparency	Incomplete	N/A
Shackling of Juveniles	F	F
Juvenile Transfers	C+	C-

In 2005, the American Civil Liberties Union, the ACLU of Ohio, the Children's Law Center and the Ohio Public Defender began an investigation into the extraordinarily high rates at which Ohio juveniles waived their right to counsel in delinquency proceedings. In the course of that investigation, the groups uncovered numerous areas within Ohio's juvenile justice system that fail the state's children. As the most recent edition, the 2011 report card analyzes six aspects of Ohio's juvenile justice system and grades them on how well they are doing in light of national and international standards.

# Waiver of Counsel

# Grade

## TOO MANY CHILDREN APPEARING IN COURT ARE NOT REPRESENTED BY COUNSEL.

1

(Incomplete)

According to the United States Supreme Court and international human rights conventions, rules and guidelines, children accused of criminal wrongdoing are entitled to the assistance of an attorney in the preparation of their defense.<sup>1</sup> In light of a large body of social science research demonstrating that most youth do not have the knowledge or maturity to understand the consequences of a waiver,<sup>2</sup> a growing number of states— including Iowa, New Mexico, North Carolina, Oklahoma, and Texas—have passed legislation prohibiting youth from waiving their right to counsel in court proceedings under any circumstances.<sup>3</sup> Ohio has no such law. In 2007, the Ohio Supreme Court held in the case *In re C.S.* that prior to waiving their right to counsel, a child must consult a parent, guardian or attorney who is “capable and willing to assist [them] in the waiver analysis.” It also ruled that to determine whether a waiver is valid, a court must consider the child’s intelligence, education, background, experiences, conduct, family, emotional stability, and the complexity of the proceedings.<sup>4</sup>

In another Ohio Supreme Court case, *In re Andrew*, the court found when exercising jurisdiction on a matter related to a prior adjudication as a delinquent child, the person shall be treated as a child until he or she reaches the age of 21. This means that the law expanding a juvenile’s constitutional right to appointed counsel applies even after the person reaches the age of 18.<sup>5</sup>

In 2010, the Supreme Court’s Advisory Committee released a report on juvenile defendant’s access to counsel.<sup>6</sup> This report recommends an amendment to Juvenile Rule 3, which would require that children are fully and effectively informed by a consultation with an attorney of their right to counsel and the disadvantages of self-representation.<sup>7</sup>

It also stipulated that any waiver should be made by voluntary consent after the judge has explained the potential consequences. The report noted that courts should verify whether an attorney met with the minor to inform them of these rules.<sup>8</sup> Similar recommendations requiring “a child to consult with an attorney prior to waiving their right to be represented by counsel have received the support of former Supreme Court of Ohio Chief Justice Eric Brown and the U.S. Department of Justice Access to Justice Initiative.”<sup>9</sup> As of the date of this publication, no action has been taken to codify these recommended amendments.

It should also be noted that Ohio does not track which juveniles waive their right to counsel or subsequent outcomes in cases where youths waive counsel. In fact, waiver may have improved throughout the state, but we cannot make this claim because the data does not exist. Additional information indicating the number of youths who waive their right to counsel would assist state agencies and juvenile justice advocates by showing a clearer picture of how often youths waive their right to counsel and helping to spur reforms to ensure waiver is reduced or eliminated.

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# Rates of Juvenile Detention and Commitment

## Grade

### OHIO DETAINS AND INCARCERATES A GREATER PERCENTAGE OF ITS ADOLESCENT POPULATION THAN MOST OTHER STATES.

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International and national standards state that court-involved youth should be deprived of their liberty only as a “last resort” and “for the minimum period necessary.”<sup>10</sup> **A growing body of social science research demonstrates that the unnecessary detention and incarceration of youth charged with or convicted of non-violent offenses increases the likelihood that they will reoffend;** exacerbates emotional, behavioral and educational difficulties; and costs taxpayers much more on a per child basis than programs designed to supervise children returned to their communities.<sup>11</sup>

Ohio initiatives as well as a recent court settlement between Ohio’s Department of Youth Services (DYS) and juveniles held in confinement<sup>12</sup> have helped spur considerable changes and led to reduced rates of detention. In 2007, before the court settlement, the average number of detained individuals within DYS facilities was over 1,800.<sup>13</sup> In 2011, after the settlement had been implemented, the number fell to 823.<sup>14</sup> Additionally, Ohio’s Reasoned and Equitable Community and Local Alternative to Incarceration of Minors program (RECLAIM), helped to establish financial incentives to prevent detention facilities from over-incarceration of youths.<sup>15</sup> The RECLAIM program, one of the first of its kind nationally, has also assisted in reducing the number of committed youth to detention facilities by 42% between 1992 and 2009.<sup>16</sup>

In 2010, DYS and five counties in Ohio, including Cuyahoga, Franklin, Lucas, Montgomery and Summit, teamed with the Annie E. Casey Foundation to participate in another program, the Juvenile Detention Alternatives Initiative (JDAI).<sup>17</sup> JDAI is a program that helps local communities and facilities reach specific goals to better the juvenile justice systems including lowering the detention rates among juve-

niles, reducing racial inequities and improving the conditions for confined youth.<sup>18</sup> To achieve these goals JDAI uses various approaches such as using better and more reliable information, heightened cooperation between juvenile justice agencies, local government and advocacy organizations and creating more objective criteria by which juveniles are sentenced to secured confinement.<sup>19</sup>

One significant concern in Ohio’s juvenile justice system is the continuation of detaining status offenders, or a “juvenile who has been charged with or adjudicated for conduct which would not . . . be a crime if committed by an adult.”<sup>20</sup> Examples of status offenses include chronic or persistent truancy, running away, violating curfew laws, or possessing alcohol or tobacco.<sup>21</sup> To address this concern, Congress passed the Juvenile Justice and Delinquency Prevention Act (JJDP) in 1974, which outlawed confining juveniles for committing status offenses.<sup>22</sup> However, the JJDP was amended to allow an exception that permitted states to confine youths who violate a valid court order (VCO).<sup>23</sup> Since VCOs are typically issued by a judge to prohibit a juvenile from committing a status offense, states have used this provision as a loophole to continue confining youths for status offenses.<sup>24</sup> Currently, 35 states, including Ohio, continue the practice of detaining status offenders.<sup>25</sup> This practice has been denounced by the National Council of Juvenile and Family Court Judges.<sup>26</sup>

Though DYS confinement rates have dropped, the number of youth confined in local detention centers may still be high. A review of 2008 data from seventeen out of forty local juvenile detention facilities reveals that more than 21,400 youth were detained during that time. However there is no comprehensive data available, as counties are not required to report this information consistently.

# Disproportionate Minority Confinement (DMC)

## Grade

### OHIO DISPROPORTIONATELY INCARCERATES CHILDREN OF COLOR.

# D

The Fourteenth Amendment to the United States Constitution and international human rights standards mandate that state juvenile justice systems treat similarly situated children equally, regardless of their race or national origin. Discrimination on the basis of race, color, language, religion, national or social origin or other status is strictly prohibited.<sup>27</sup> Systems in which youth of color are overrepresented are often viewed as failing to adhere to these mandates. In Ohio, youth of color are overrepresented in the state's juvenile detention and correctional facilities. Although youth of color accounted for an estimated 24% of Ohio's 2009 juvenile population,<sup>28</sup> in fiscal year 2010 they represented 54.5% of juveniles adjudicated delinquent for felony offenses and 66.7% of juveniles committed to the Department of Youth Services (DYS).<sup>29</sup>

In 2007, DYS began a Disproportionate Minority Contact (DMC) initiative targeting the 14 counties with the highest minority youth population. Each of the 14 counties was given funds by DYS to develop programs to reduce DMC.<sup>30</sup> DYS is working toward completing a statewide assessment to determine the extent of DMC in all counties and whether programs should expand from the original 14 counties.<sup>31</sup> DYS noted a 14% decrease in African-American admissions to DYS from 2007 through 2009 (861 to 737), which may indicate positive results from the program.

**In 2009, African American juveniles accounted for approximately 16% of Ohio's youth population.<sup>32</sup> Yet, in 2011, DYS reports African Americans accounted for 56% of youth committed to DYS facilities.<sup>33</sup>** Although these figures appear to show that young African Americans commit more acts of delinquency than their white peers, studies indicate such a conclusion is not necessarily accurate. Other

explanations for these startling statistics include law enforcement proactively targeting low-income urban neighborhoods while using group arrests<sup>34</sup> and racial bias in deciding who is placed in diversion programs.<sup>35</sup> Additionally, it is important to note that Ohio only collects data for three racial and ethnic categories of youth (White, Black and Other), which provides an incomplete picture of youth in the juvenile justice system.

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# Transparency

# Grade

## **OHIO FAILS TO COLLECT AND MAINTAIN ADEQUATE DATA ON YOUTH WHO COME INTO CONTACT WITH THE JUVENILE JUSTICE SYSTEM.**

**I**  
*(Incomplete)*

**Although Ohio does collect some data on youth involved in the juvenile justice system, the data collected and released to the public is inadequate to determine how effectively the system is working.**

The Ohio Department of Youth Services (DYS) is one of the central repositories for data on youth involved in the juvenile justice system in Ohio. Each year DYS collects and releases data relating to programs and demographics of youths admitted to DYS facilities. However, the type of information DYS releases varies by year, which leads to an inaccurate picture of the state of DYS initiatives and demographics of admitted youth. For example, the earliest available report on the DYS website, Annual Report Fiscal Year 2002, contains information which included ratios of staff and officers to youth offenders, program expenses and recidivism rates (recidivism occurs when a youth “is rearrested, adjudicated for a new offense, committed to a DYS facility, or comes into any contact with the juvenile justice system”).<sup>36</sup>

In its most recent report, Annual Report Fiscal Year 2011, DYS provided information regarding demographics on admitted juveniles, the quality of education received by committed youths, average population by site, average length of stay and admissions by county.<sup>37</sup> Unlike previous reports, it failed to provide figures on recidivism rates, detailed youth profiles, and ratios of DYS staff to offenders.<sup>38</sup> DYS may be collecting additional data, but it is not releasing it in its annual reports. While DYS does release some data, DYS should be consistent in what data it releases in order to show improvements over time. Additionally, in order to give the public a more complete picture of how taxpayer dollars are being used to fund the juvenile justice system, DYS must release all data it collects from the courts and the various facilities across the state.

Ohio lacks sufficient crucial data in other areas of its juvenile justice system. One important piece of information not being collected or reported is the number of juveniles that waive their right to counsel. As indicated earlier in this report, juvenile waiver of counsel is a serious and widespread concern throughout the state. There is also a lack of information related to youth transfers (or bindover) from the juvenile to the adult criminal justice system. Key information on juvenile transfers not collected includes the number of youths eligible for bindover, the results of bindover cases encompassing any sentencing and statistics on the long term effects of bindover on recidivism and reincarceration. Also, there is insufficient data collected and reported on juvenile diversionary programs that help to keep youths out of detention facilities. Currently, no information exists on which youths participate in diversion programs and the efficacy of those programs. The lack of hard data in these key areas demonstrates that data collection and transparency is an issue at every level of our justice system from law enforcement to the courts. The state has a high stake in collecting this valuable data. More transparency and reliable figures can help to achieve a better understanding of the system, reduce costs, illustrate the effectiveness of important reforms, enhance oversight and improve rehabilitation and treatment for Ohio’s youth.

## Shackling of Juveniles

# Grade

**OHIO PERMITS CHILDREN TO BE SHACKLED WITH NO COMPELLING NEED.**

**F**

## Juvenile Transfers

# Grade

**OHIO MANDATES THAT SOME CHILDREN BE TRIED AS ADULTS.**

**C+**

By international standards, the routine shackling of children who pose no danger to themselves or others during juvenile court proceedings is cruel and unnecessary.<sup>39</sup> Shackling can have a chilling effect on the fair administration of justice; can undermine the rehabilitative focus of the juvenile court; is demeaning and dehumanizing; and creates the presumption that youth who have yet to be adjudicated are delinquent of the charges against them.<sup>40</sup>

Recognizing their potentially prejudicial effect, **the United States Supreme Court has ruled that restraints may not be used on adult criminal defendants during the guilt phase of a trial absent an individual and compelling need.**<sup>41</sup> **However, juveniles are not afforded the same right.** A growing number of states, including California, Florida, Illinois, Massachusetts, North Carolina, North Dakota, New Mexico, New York and Oregon, now prohibit the shackling of a child during a delinquency proceeding unless a judge finds that the child must be restrained to maintain order in the courtroom, prevent escape or provide for the safety of others.<sup>42</sup> Ohio is not one of these states. Children appearing in Ohio's juvenile courts may be shackled for any reason or no reason. In some counties, including Clark, Cuyahoga, Franklin, Hamilton, Erie, Logan, Lorain, and Lucas, youth can appear in juvenile court restrained by handcuffs, belly chains and/or leg irons.<sup>43</sup>

In the 1990s, many states expanded the circumstances under which children could be tried as adults and incarcerated in adult jails and prisons. Subsequent research, however, has revealed that transferring children from juvenile to adult courts actually increases recidivism;<sup>44</sup> subjects youth to conditions that jeopardize their physical and emotional safety, making subsequent rehabilitation almost impossible;<sup>45</sup> results in unnecessarily harsh sentences;<sup>46</sup> and strains the resources of adult correctional facilities and criminal courts.<sup>47</sup>

The American Bar Association recommends that judges be permitted to decide whether to transfer a youth to adult court based on a multitude of factors, including whether the child is capable of rehabilitation.<sup>48</sup> All states continue to permit children to be charged as adults under certain circumstances. Ohio, however, is one of only 15 states that remove the transfer decision from judges for certain types of offenses, mandating that children charged with those offenses be tried as adults.<sup>49</sup> Race may also prove a factor in juvenile transfers. In fiscal year 2010, 303 youths, of which 75% were African-American, were prosecuted as adults in Ohio's criminal courts.<sup>50</sup> Given that African Americans made up 16% of Ohio's juvenile population in 2009, there is clear evidence of disproportionate racial effect on juveniles transferred to adult court.<sup>51</sup> States across the country, including Ohio, have been moving away from prosecuting youth as adults. Recently passed legislation in Ohio incorporated a provision allowing 16- and 17- year old youth transferred to the adult court to be sent back to juvenile court in certain circumstances.<sup>52</sup> If a youth is sent back, any criminal conviction would be reclassified as a delinquency. Though modest, this reform indicates the state's willingness to alter its hard line on juvenile transfers.

1. In re Gault, 387 U.S. 1 (1967); United Nations Convention on the Rights of the Child ("CRC"), adopted by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, Arts. 37, 40 (any child accused of violating the law has the right to "legal or other appropriate assistance in the preparation and presentation of his or her defence"); United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, adopted by General Assembly resolution 45/113 of 14 December 1990, Rule 18(a) ("[J]uveniles should have the right of legal counsel"); United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), adopted by General Assembly resolution 40/33 of 29 November 1985, Rule 7.1 ("Basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority shall be guaranteed at all stages of proceedings.").
2. Policy Brief: Juvenile Waiver of Counsel (Center for Policy Alternatives, Wash. D.C.), 2007, available at <http://www.cfpa.org/issues/issue.cfm/issue/JuvenileWaiver.xml>; Juvenile Justice Standards Relating to Pretrial Court Proceedings (American Bar Association, Ill.), 1979, Standard 6.1.
3. Iowa (Iowa Code Ann. § 232.11), New Mexico (N.M. Stat. § 32A-2-14), North Carolina (N.C. Gen. Stat. § 7B-2000), Oklahoma (Okla. Stat. Ann. § 7003-3.7), and Texas (Tex. Fam. Code. Ann. § 51.10).
4. In re C.S., 115 Ohio St.3d 267, 2007-Ohio-4919.
5. In re Andrew, 119 Ohio St.3d 466, 2008-Ohio-4791.
6. Protecting a Juvenile's Right to be Represented by Counsel (Office of the Ohio Pub. Defender) available at [http://www.opd.ohio.gov/Juvenile/Jv\\_Right\\_to\\_Counsel.htm](http://www.opd.ohio.gov/Juvenile/Jv_Right_to_Counsel.htm) (last visited Mar. 4, 2011).
7. Id.
8. Id.
9. Supra n. 6.
10. CRC, supra n.1. Art. 37(b) ("[t]he arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time"); Juvenile Justice Standards Relating to Interim Status, The Release, Control and Detention of Juvenile Offenders Between Arrest and Disposition (American Bar Association, Ill.), 1980, Standard 6.6. See also Ronald C. Smith, Youth in the Criminal Justice System: An ABA Task Force Report (American Bar Association, Ill.), Feb. 2002, at 2.
11. Barry Holman and Jason Ziedenberg, The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities (Justice Policy Institute, Wash. D.C.), 2006, at 10-11, available at [http://www.cfjj.org/Pdf/116-JPI008-DOD\\_Report.pdf](http://www.cfjj.org/Pdf/116-JPI008-DOD_Report.pdf), citing to D. Mace, P. Rode and V. Gnau, "Psychological Patterns of Depression and Suicidal Behavior of Adolescent Youth in a Juvenile Detention Facility," JOURNAL OF JUVENILE JUSTICE AND DETENTION SERVICES, Vol. 12, No. 1, 1997, at 18-23; Incarceration of Youth Who are Waiting for Community Mental Health Services in the United States (Committee on Government Reform, Special Investigations Divisions, Minority Staff, Wash. D.C.), 2004, available at [http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore\\_id=bdb90292-b3d5-47d4-9ffc-52dcd6e480da](http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=bdb90292-b3d5-47d4-9ffc-52dcd6e480da); C.B. Forest, E. Tambor, A.W. Riley, M.E. Esminger and B. Starfield, "The Health Profile of Incarcerated Male Youth," PEDIATRICS, Vol. 105, No. 1, 2000, at 286-291; and J.H. Kashani, G.W. Manning, D.H. McKnew, L. Cytryn, J.F. Simonds, and P.C. Wooderson, "Depression Among Incarcerated Delinquents," PSYCHIATRIC RESOURCES, Vol. 3, 1980, at 185-191; Unlocking the Future, Detention Reform in the Juvenile Justice System, 2003 Annual Report (Coalition for Juvenile Justice, Wash. D.C.), 2004, at 22-23, available at [http://www.juvjustice.org/media/resources/resource\\_114.pdf](http://www.juvjustice.org/media/resources/resource_114.pdf); Juvenile Justice Bulletin: Alternatives to the Secure Detention and Confinement of Juvenile Offenders (Office of Juvenile Justice and Delinquency Prevention, U.S. Dep't of Justice Wash. D.C.), Sept. 2005, at 13-14 available at <http://www.ncjrs.gov/pdffiles1/ojjdp/208804.pdf>.
12. Children's Law, Inc. S.H., et al. v. Stickrath Fact Sheet, 2009, available at <http://clcky.squarespace.com/storage/documents/sh-v-stickrath-fact-sheet-2.pdf>.
13. Annual Report Fiscal Year 2007 Ohio (Dep't of Youth Services, Ohio), available at <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=d1pWeiHEgx1%3d&tabid=102&mid=544>.
14. (including Paint Creek and Columbus community based treatment centers) Annual Report Fiscal Year 2011 Ohio (Dep't of Youth Services, Ohio) available at <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=etSMQ3q4G3Xss%3d&tabid=102&mid=544>.
15. Children's Law Center, Inc. On the Right Path: Moving Toward a Safe, Sound and Cost Effective Juvenile Justice System in Ohio, 2011 available at <http://www.childrenslawky.org/storage/OnTheRightPath.pdf>.
16. Id.
17. Juvenile Detention Alternatives Initiative (Dep't of Youth Services, Ohio), available at <http://www.dys.ohio.gov/dnn/Community/Juvenile-DetentionAlternativesInitiative/tabid/171/Default.aspx>.
18. Annie E. Casey Foundation, Juvenile Detention Alternatives Initiative: Core Strategies, available at <http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative/CoreStrategies.aspx>.
19. Id.
20. Judicial Administration, 28 C.F.R. § 31.304(h) (West 2011).
21. Am. Bar Assoc., Act 4 Juvenile Justice: Juvenile Status Offenses Fact Sheet, available at [http://www.act4jj.org/media/factsheets/factsheet\\_17.pdf](http://www.act4jj.org/media/factsheets/factsheet_17.pdf).
22. Patricia J. Arthur and Regina Waugh, Status Offenses and the Juvenile Justice and Delinquency Prevention Act: The Exception that Swallowed the Rule, 7 Seattle J. for Soc. Just. 555, 558 (2009), available at [http://www.nijn.org/uploads/digital\\_library/resource\\_1353.pdf](http://www.nijn.org/uploads/digital_library/resource_1353.pdf).
23. Id. at 559.
24. Id. at 560.
25. Linda Szymanski, What is the Valid Court Order Exception to Secure Detention for Status Offenders? NCJJ Snapshot, 16(5). Pittsburgh, PA: National Center for Juvenile Justice available at [http://www.ncjj.org/pdf/Snapshots/2011/vol16\\_no5\\_What%20is%20the%20Valid%20Court%20Order%20Exception%20to%20Secure%20Detention%20for%20Status%20offenders.pdf](http://www.ncjj.org/pdf/Snapshots/2011/vol16_no5_What%20is%20the%20Valid%20Court%20Order%20Exception%20to%20Secure%20Detention%20for%20Status%20offenders.pdf).
26. Nancy Gannon Hornberger, Improving Outcomes for Status Offenders in the JJDPA Reauthorization, Juv. and Fam. Just. Today 16 (Summer 2010), available at [http://www.juvjustice.org/media/announcements/announcement\\_link\\_156.pdf](http://www.juvjustice.org/media/announcements/announcement_link_156.pdf).
27. U.S. Constitution, 14th Amend.; CRC, supra n.1, Art.2 ("States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."); Beijing Rules, supra n.1, Rule 2.1 ("The following Standard Minimum Rules shall be applied to juvenile offenders impartially, without distinction of any kind, for example as to race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status."); United Nations Standard Minimum Rules for the Treatment of Prisoners, supra n.10, Rule 6(1) ("There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.").
28. Annie E. Casey Foundation, Kids Count Data by State, Profile for Ohio, 2011 (using 2009 data) available at <http://datacenter.kidscount.org/data/bystate/stateprofile.aspx?state=OH&group=Grantee&loc=37&dt=>

1%2c3%2c2%2c4.

29. Profile of Youth Adjudicated or Committed for Felony Offense, Fiscal Year 2010 (Dep't of Youth Services, Ohio) February 2011 available at <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=etxsZ0hF5lk%3d&tabid=117&mid=873>.
  30. Summary of County Assessments (Dep't of Youth Services and the Governor's Council on Juvenile Justice Disproportionate Minority Contact Initiative, Ohio) available at <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=%2bDRTKk5lcqE%3d&tabid=147&mid=864>.
  31. Disproportionate Minority Contact: Ohio's Initiative (Dep't of Youth Services) June 2010 available at <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=7irKtqVhtQ%3d&tabid=147&mid=864>.
  32. *Supra* n. 22.
  33. Annual Report Fiscal Year 2011 Ohio (Dep't of Youth Services, Ohio) available at <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=SMQ3q4G3Xss%3d&tabid=102&mid=544>.
  34. National Conference of State Legislatures, *Minority Youth in the Juvenile Justice System: Disproportionate Minority Contact, 2009*, available at <http://www.ncsl.org/documents/cj/minoritiesinjj.pdf>.
  35. ACLU of Ohio, *Overcharging, Overspending, Overlooking: Cuyahoga County's Costly War on Drugs*, pp 4.
  36. Annual Report Fiscal Year 2002 Ohio (Dep't of Youth Services, Ohio) November, 2002, available at <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=u0PFL087fV8%3d&tabid=102&mid=544>.
  37. Annual Report Fiscal Year 2010 Ohio (Dep't of Youth Services, Ohio), available at <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=UYlg4tksNbU%3d&tabid=102&mid=544>.
  38. *Id.*
  39. CRC, *supra* n.1, Art. 37(a) ("[n]o child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment"); United Nations Rules for the Protection of Juveniles Deprived of their Liberty, *supra* n.1, Rule 64 ("Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time."); United Nations Standard Minimum Rules for the Treatment of Prisoners, adopted on 30 August 1955 by the United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and approved by the Economic and Social Council in resolutions of 31 July 1957 and 13 May 1977, Rule 33 ("[C]hains or irons shall not be used as restraints. Other instruments of restraint shall not be used except . . . (a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority; (b) On medical grounds by direction of the medical officer; (c) By order of the [prison] director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property.");
  40. Testimony of Emily Breon, Attorney, in Support of Raised Bill No. 5491 an Act concerning Youthful Offenders and Delinquent Children (Center for Children's Advocacy, CT), Feb. 26, 2008, available at [http://www.kidscounsel.org/5491\[shackling\].doc](http://www.kidscounsel.org/5491[shackling].doc).
  41. *Deck v. Missouri*, 544 U.S. 622, 627 (2005).
  42. California (*Tiffany A. v. Superior Court*, 150 Cal. App. 4th 1344 [Cal. Ct. App. 2007]); Illinois (*In re Staley*, 364 N.E.2d 72, 74 [Ill. 1977]); Massachusetts, Amendment to Trial Court of the Commonwealth Court Officer Policy and Procedures Manual, February 25, 2010 ([http://nijn.org/uploads/digital\\_library/resource\\_1525.pdf](http://nijn.org/uploads/digital_library/resource_1525.pdf)); North Carolina (H.R. 1243, 2007 Session); North Dakota (*In re R.W.S.*, 728 N.W.2d 236, 330 [N.D. 2007]); New York (*John v. Carrion*, Sup. Ct, New York County, April 15, 2009, Tingling, J., index No. 407117/07); Oregon (*In the Matter of*
43. Ohio Public Defender Shackling Procedures Survey, updated via email to Karen Marcus, Legal Assistant, ACLU, Nov. 20, 2008.
  44. Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?* (Office of Juvenile Justice and Delinquency Prevention, U.S. Dep't of Justice, Wash. D.C.), August 2008, available at [http://www.ctjja.org/media/resources/resource\\_309.pdf](http://www.ctjja.org/media/resources/resource_309.pdf).
  45. Jeffrey Fagan, M. Frost & T.S. Vivona, "Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy," *JUV. & FAM. CT. J.* Vol. 40, Issue 1, 1989. Elizabeth Scott and Laurence Steinberg, "Adolescent Development and the Regulation of Youth Crime," *JUVENILE JUSTICE*, Vol. 18, No. 2, Fall 2008, at 25.
  46. Megan Kurlychek and Brian Johnson, "The Juvenile Penalty: A Comparison of Juvenile and Young Adult Sentencing Outcomes in Criminal Court," *CRIMINOLOGY*, Vol. 42, Issue 2, 2008, at 485-515.
  47. Annual Report (Office of Juvenile Justice and Delinquency Prevention, U.S. Dep't of Justice, Wash. D.C.), 1998, at 55, available at <http://www.ncjrs.gov/pdffiles1/ojjdp/178892.pdf>. See also Jeffrey Fagan and Franklin E. Zimring, *The Changing Borders of Juvenile Justice*. Available at <http://www.adjj.org/downloads/8710Changing%20Borders.pdf>.
  48. *Juvenile Justice Standards: A Balanced Approach*, Standards Relating to Transfer Between Courts (Institute of Judicial Administration, American Bar Association, Ill.), 1996, Section 2.2, at 287-89. See also Ronald C. Smith, *Youth in the Criminal Justice System: An ABA Task Force Report* (American Bar Association, Ill.), Feb. 2002, at 1.
  49. *Juvenile Transfer Laws* (National Center for Juvenile Justice, Pittsburgh, PA), current through end of 2009 legislation, available at <http://www.ncjj.org/Topic/Juvenile-Transfer-Laws.aspx>.
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