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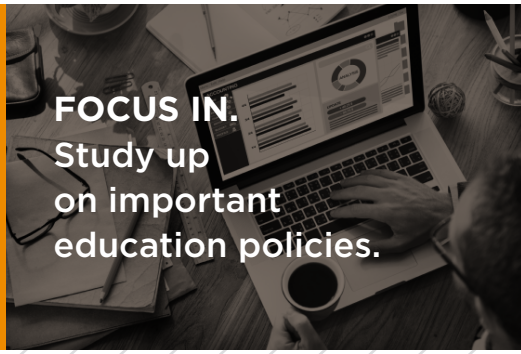
POLICY ANALYSIS



State and Federal Policy: Incarcerated youth

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Who are incarcerated youth?

On any given day, an estimated 51,000 youth across the United States are held in residential placement facilities.[1] The youth in custody are overwhelmingly male (86 percent) minorities (68 percent) in their mid-to late-teens (or at least 15 years old).[2] Some are detained temporarily in short-term facilities as they await their sentencing or placement, while others are committed for longer periods to a facility as part of a court-ordered disposition.

EXPERTS POINT TO A NUMBER OF BARRIERS THAT LIMIT THE ACADEMIC SUCCESS OF INCARCERATED YOUTH. EXAMPLES INCLUDE: A LACK OF COORDINATION AMONG RESPONSIBLE PARTIES, SUBSTANDARD EDUCATION DURING INCARCERATION AND DISJOINTED RE-ENTRY PRACTICES.

Approximately 35 percent of these youth are charged with crimes against another person; the remaining 65 percent are charged with other non-person offenses, such as property offenses, drug law violations or technical violations.[3] Due in large part to restorative juvenile justice reforms, which aim to divert and rehabilitate young offenders, the number of youth in custody on a single day has dropped by more than 50 percent since the late 1990s.[4]

In 2013, thirteen states had more youth detained for technical violations—violations made during probation or parole, such as missing curfew, failing to report for a scheduled office visit or testing positive for drugs—than for crimes against another person.[5] In that same year, nearly all states had a disproportionate representation of minorities in juvenile corrections.

Approximately **one** in **three juvenile offenders** in residential placement **do not attend school**, and one in two receives less than six hours of educational instruction a day.

The **Every Student Succeeds Act** includes new provisions that could usher in **improvements** to **juvenile justice education systems**.

Related Education Commission of the States reports:

State and Federal Policy: **HOMELESS YOUTH**

State and Federal Policy: **MILITARY YOUTH**

State and Federal Policy: **GIFTED AND TALENTED YOUTH**

State and Federal Policy: **NATIVE AMERICAN YOUTH**

Though minority youth accounted for 44 percent of the United States juvenile population, they accounted for 68 percent of the incarcerated youth population. In 12 states and the District of Columbia, minorities represented more than 75 percent of incarcerated youth.[6]

Educational barriers for incarcerated youth

Incarcerated youth face significant educational barriers before entering the correctional system, while in the system and after they depart. Youth who enter the system are significantly more likely to have mental health disorders, learning disabilities and exhibit severe academic deficiencies than youth from the average school-age population.[8] Studies have shown that:

- At least 30 percent of incarcerated youth are diagnosed with a learning disability—more than seven times the national average of 12-17-year olds.
- Forty-eight percent demonstrate academic proficiency below grade level, and at least 25 percent have repeated a grade.
- Sixty-one percent have been suspended and/or expelled from school and 21 percent are not enrolled in a school when they enter custody.[9]

Unfortunately, many of these students' educational deficits and support needs are not properly identified or addressed when they enter custody. Experts have pointed to a number of structural and institutional barriers that limit the academic success of incarcerated youth. These include, but are not limited to:

1. **A lack of coordination among responsible parties -** In most cases, the care and education of incarcerated youth is managed by multiple state and local agencies—including juvenile courts and justice departments, social service agencies, state or local education agencies and public or private providers—in addition to other individual parties, such as counselors and parents. This requires a system of multi-agency, multi-actor coordination that is not in place in most states.[10]

Understanding the LANGUAGE

Detained youth
Youth who are detained temporarily (for an average of 22 days) in a facility as they await their sentencing or placement.

Committed youth
Youth who have been adjudicated for an offense and committed to a facility (for an average of 120 days) as part of a court-ordered disposition.

Incarcerated youth
Youth who are detained or committed in a residential placement facility or who are admitted voluntarily as part of a diversion agreement.

Residential placement facility
Any out-of-home youth placement facility, including a juvenile detention facility, correctional facility, group home or shelter.

Facility schools
Institutions that provide education services to incarcerated youth. The education service provider varies within and among states and may include: the agency operating the facility, a state education agency, a local education agency, a different public provider or a private provider through a contract with a public agency.[7]

"IN MOST STATES, IT IS LIKELY THAT POLICYMAKERS AND EVEN STATE AGENCY LEADERS LACK THE FULL PICTURE OF WHAT EDUCATIONAL AND VOCATIONAL SERVICES ARE AVAILABLE TO INCARCERATED YOUTH; WHO IS RESPONSIBLE FOR THE PROVISION OF THESE SERVICES; AND WHAT, IF ANY, OUTCOMES STUDENTS ARE ACHIEVING."[11]

– CSG Justice Center

2. **Substandard – or nonexistent – education during incarceration** - Many detained youth receive little to no educational services or receive much less instructional time than youth in public schools. [13] While it may be difficult for a facility school to make a substantial impact on a student's learning if the student is only detained for a short period of time, research indicates that youth in custody for extended periods of time also receive inadequate education services, if they receive any services at all.[14]

   A 2015 50-state survey conducted by the Council of State Governments Justice Center found that youth committed to state custody did not have access to the same educational services, rigorous curriculum and student performance standards as traditional public school students. Survey results also indicated that schools that serve incarcerated students often have low accountability requirements. For example, many states do not require facility schools to track student outcome data, participate in the state education accountability system or meet national education accreditation standards.[15]

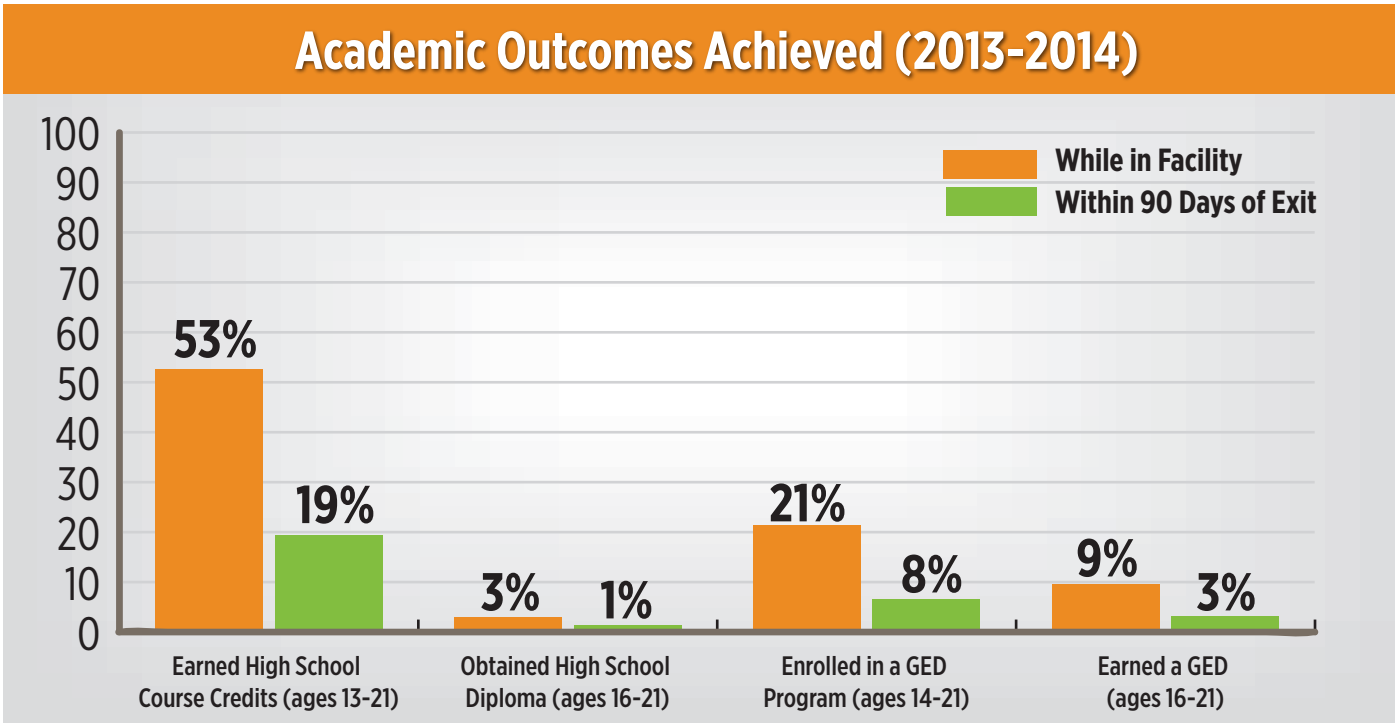
   Though more than half of committed youth obtain high school course credits while in custody, and some students make progress in reading and mathematics, few earn the academic credentials (high school diploma or GED) necessary to support their future success (Figure 1).[16] Critics point to inadequate services, incoherent curricula, untrained and unqualified teachers and a lack of technology and classroom materials, among other things, as severely limiting the ability of committed youth to progress academically.

In a 2010 federal survey, **92 percent** of **residential placement facilities** reported that at least some of their youth attend school, but **only 73 percent** reported that **all** of their **youth attended school**. Approximately **28 percent** of juvenile offenders in residential placement **do not attend school** and **55 percent** receive **less than six hours** of educational instruction a day.[12]

3. **Disjointed re-entry practices -** Sixty-six percent of committed youth never return to school, and of those who do, many never graduate high school (Figure 1).[17] Missing or incomplete school records, delays in transferring records, complicated school re-enrollment processes, failed credit transfers and misaligned educational placements, among other obstacles, contribute to the unsuccessful transitions of many youth from state custody to their local public school.[18]

POLICY ANALYSIS

FIGURE 1:



Source: Source: "Fast Facts," The National Technical Assistance Center for the Education of Neglected or Delinquent Children and Youth, 2015, http://www.neglected-delinquent.org/fast-facts/united-states *(accessed September 29, 2016).*

State policy supports

In recent years, many states have taken action to ensure incarcerated youth have access to better educational services. Examples include:

Coordinating the actions of responsible parties

Massachusetts - Through a contract with the Collaborative for Educational Services, the Massachusetts Department of Youth Services (DYS) employs education and career counselors who help transition incarcerated youth from their residential placement back into school or work. Among other duties, counselors work closely with DYS caseworkers, facility and public school staff to coordinate the timely transfer of student records and to relay important information regarding the student's educational needs. To support their work, counselors have access to a software system shared by DYS and the Massachusetts Department of Elementary and Secondary Education, which collects education information for each student.[19]

Improving the educational and vocational services provided

Arizona - In 2012, the Arizona legislature passed SB 1037 to expand the education opportunities provided to committed youth. The law requires the Arizona Department of Juvenile Corrections (DYC) to assign each committed youth to an appropriate educational program in a secure care facility or other placement, based on their individual treatment plan. The law also requires that youth granted conditional liberty, or placed in the care of a parent, guardian or community while receiving continued treatment and rehabilitation services, be assigned by the

DYC to a public or private educational program if it is in the best interests of the youth and the community.

Pennsylvania - Pennsylvania's Academic and Career/Technical Training Alliance (PACTT) works to ensure incarcerated youth receive relevant and high-quality academic and career and technical education training. PACTT develops clear standards for the education services provided to incarcerated youth, provides an affiliation process that recognizes programs that meet or exceed their standards and offers technical assistance to facility schools seeking to improve. Though originally funded by a mix of partner organizations, the program's success paved the way for a 2013 transition to the Pennsylvania Department of Human Services Bureau of Juvenile Justice.[20]

Ensuring successful re-entry

Connecticut - In 2011, the Connecticut legislature passed H.B. 6325 to help students transition from state custody back into their local school. The law permits a student to re-enroll in his or her old school district even after committing an offense for which the student could have been expelled. Prior to a student's discharge, the law requires that educational providers assess the schoolwork that the student completed while incarcerated and determine how much credit to assign to it, and also requires that the school that the student attends accepts the credits.

Federal guidance and ESSA

The education services provided to incarcerated youth are impacted most clearly by state and facility policies and supports. However, the federal government has become increasingly clear on the expectations held for schools in residential placement facilities. For example, the Individuals with Disabilities Education Act (IDEA) requires all facilities to provide a free and appropriate education to students with disabilities, a population that comprises at least one-third of the incarcerated youth population. [21] In addition, the Every Student Succeeds Act (ESSA) a reauthorization of the Elementary and Secondary Education Act (ESEA), maintains the general requirement that state and local agencies receiving Title I funds and serving youth in residential placement facilities provide services designed to meet the education needs of these youth.[22]

ESSA also includes new provisions beyond those established under the No Child Left Behind Act (NCLB), the previous iteration of ESEA, that could usher in improvements to juvenile justice education systems. Under ESSA, state education agencies must establish:

Funding the education services provided to incarcerated youth

The federal government provides funding for school-age incarcerated youth through Title I, Part D of ESSA known as the Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk. In fiscal year 2016, the federal government provided $47.6 million in funding for this program. A report from the federal Office of Juvenile Justice found that there were approximately 51,000 incarcerated youth in the United States in 2014. This means that federal funding from Title I, Part D provides about $933 per student to educate incarcerated youths – the additional funding to educate these students comes from state and local sources. The national average per pupil funding is currently $11,943, meaning state and local sources need to provide an additional $11,010 per pupil to provide equitable education funding to incarcerated youth.[23]

- Opportunities for incarcerated youth to participate in credit-bearing coursework while in high school, postsecondary education or career and technical education programming.
- Procedures to ensure the timely re-enrollment of each student in secondary school or in a re-entry program that best meets the needs of the student.
- Procedures to ensure that the credits a student earns while incarcerated will transfer upon re-entry.

The law also supports targeted, evidence-based services for youth who come in contact with the juvenile justice system, places additional emphasis on incarcerated youth obtaining a high school diploma, and requires that correctional institutions receiving funds under the law coordinate the educational transition of re-entering youth "so as to minimize disruption to the child's or youth's achievement."[24]

In 2014, the U.S. Department of Education and the U.S. Department of Justice issued a guidance package, which included recommendations to juvenile justice agencies for providing high-quality correctional education, as well as other resource materials and technical assistance offerings for states and districts.[25] That same year, former U.S. Secretary of Education Arne Duncan and former Attorney General of the United States Eric Holder sent a joint letter to all chief state school officers and state attorney generals emphasizing the importance of improving education in residential placement facilities.

THE SCHOOL-TO-PRISON PIPELINE

Some student groups, most often students of color, are disproportionately disciplined, exited from school systems, found delinquent and sentenced to confinement. The Education and Justice Departments' School Discipline and Guidance Package can serve as a reference for states interested in improving school discipline policies and reducing inappropriate referrals to the justice system.

Policy considerations

According to the Council of State Governments Justice Center,[26] when revising or creating new policies to support the education of incarcerated youth, policymakers should consider:

- **Accreditation:** Requiring facility schools to receive accreditation from a nationally recognized accrediting commission for the education services they provide.
- **Access:** Requiring facility schools to provide incarcerated youth with equitable access to the educational and vocational services available to youth in the community or requiring that states provide at least some service offerings, such as credit recovery programs, work-based learning opportunities and career and technical education or postsecondary courses.
- **Accountability:** Requiring facility schools to participate in the state education accountability system. This includes holding schools accountable for ensuring the educational services provided align with state academic standards, holding schools accountable for student performance and authorizing intervening measures for consistently failing schools.
- **Customization**: Customizing the state education accountability framework for facility schools to incorporate realistic achievement and growth goals.

- **Data Collection:** Developing the infrastructure needed to collect, track and analyze student data on a set of prescribed indicators relevant to incarcerated youth and using these indicators to evaluate and improve school performance.
- **Leadership:** Designating a single agency responsible for ensuring that youth successfully transfer to an education or vocational setting upon their release and requiring juvenile and education agencies to track student outcomes post release.

Policymakers might also consider convening a task force or other working group to analyze the educational services provided to incarcerated youth in their state, diagnose potential pitfalls and propose reform opportunities.

Expert organizations

- Center for Educational Excellence in Alternative Settings
- Center for Juvenile Justice Reform
- Federal Interagency Reentry Council
- Juvenile Law Center
- National Juvenile Justice Network
- Office of Juvenile Justice and Delinquency Prevention
- The Council of State Governments Justice Center
- The National Technical Assistance Center for the Education of Neglected or Delinquent Children and Youth

The U.S. Census Bureau conducts the Census of Juveniles in Residential Placement every two years for the **Office of Juvenile Justice and Delinquency Prevention.** Follow the links provided for the **national** and **state specific** data collected. Users can also create national, state and county tables on juvenile populations **here.**

Endnotes

1. "OJJDP Statistical Briefing Book: Demographics," U.S. Department of Justice Office of Justice Programs, 2016, http://www.ojjdp.gov/ojstatbb/corrections/qa08201.asp?qaDate=2014 (accessed September 29, 2016). Data is from 2014, the most recent date for which data is available. Data count does not include youth in federal facilities, those held exclusively for drug or mental health treatment or abused/neglected youth. They also do not capture data from adult prisons or jails. As a result the data does not include all juveniles sentenced to incarceration by criminal courts.

2. "OJJDP Statistical Briefing Book: Demographics," U.S. Department of Justice Office of Justice Programs, 2013 and 2015, http://www.ojjdp.gov/ojstatbb/corrections/qa08202.asp?qaDate=2013, http://www.ojjdp.gov/ojstatbb/corrections/qa08208.asp?qaDate=2013 and http://www.ojjdp.gov/ojstatbb/corrections/qa08204.asp?qaDate=2013 (accessed September 29, 2016).Because the upper age limit for juvenile court disposition is established by states, comparisons among states with different upper ages are problematic.

3. OJJDP Statistical Briefing Book: Offenses," U.S. Department of Justice Office of Justice Programs, 2015, http://www.ojjdp.gov/ojstatbb/corrections/qa08305.asp?qaDate=2013 and http://www.ojjdp.gov/ojstatbb/corrections/qa08306.asp?qaDate=2013. (accessed September 29, 2016). Approximately 38 percent of committed youth are charged with crimes against another person; the remaining 62 percent are charged with other non-person offenses, such as property offenses, drug law violations or technical violations. Approximately 35 percent of detained youth are charged with crimes against another person; the remaining 65 percent are charged with other non-person offenses, such as property offenses, drug law violations or technical violations.

4. Ibid., "OJJDP Statistical Briefing Book: Demographics."

5. "OJJDP Statistical Briefing Book: Offenses," U.S. Department of Justice Office of Justice Programs, 2015, http://www.ojjdp.gov/ojstatbb/corrections/qa08305.asp?qaDate=2013 (accessed September 30, 2016).

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9. Andrea Sedlak and Karla McPherson, Survey of Youth in Residential Placement: Youth's Needs and Services, SYRP Report (Rockville: Westat, 2010), 34, https://www.ncjrs.gov/pdffiles1/ojjdp/grants/227660.pdf (accessed September 30, 2016).

10. Southern Education Foundation, Just Learning The Imperative to Transform Juvenile Justice Systems into Effective Educational Systems (Atlanta, Southern Education Foundation, 2014), 5-6, http://www.southerneducation.org/getattachment/cf39e156-5992-4050-bd03-fb34cc5bf7e3/Just-Learning.aspx (accessed September 30, 2016).

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12. Ibid., Melissa Sickmund and Charles Puzzanchera, 205; Ibid., Andrea Sedlak and Karla McPherson, 44.

13. National Juvenile Justice Network, Improving Educational Opportunities for Youth in the Juvenile Justice System (Washington, D.C.: National Juvenile Justice Network, 2016) http://www.njjn.org/uploads/digital-library/NJJN_Educational%20Re-entry-snapshot_Mar2016_FINAL.pdf, 2 (accessed September 30, 2016); Katherine Twomey, "The Right to Education in Juvenile Detention Under State Constitutions," Virginia Law Review 94 (2008): 767, http://www.virginialawreview.org/sites/virginialawreview.org/files/765.pdf (accessed September 30, 2016).

14. Ibid., 2.

15. Ibid., The Council of State Governments Justice Center.

16. "Fast Facts," The National Technical Assistance Center for the Education of Neglected or Delinquent Children and Youth, 2015, http://www.neglected-delinquent.org/fast-facts/united-states (accessed September 29, 2016).

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25. Ibid., U.S. Department of Education and U.S. Department of Justice, iv.

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