

February 23, 2021

Via Electronic Delivery

Mr. Luke Clippinger, Chair
Ms. Vanessa E. Atterbeary, Vice Chair
House Judiciary Committee
Maryland General Assembly
House Office Building, Room 101
Annapolis, Maryland 21401

RE: Written Testimony Supporting HB 1187: Juvenile Law - Juvenile Justice Reform

Dear Chairman Clippinger, Vice Chairwoman Atterbeary, and Maryland House Judiciary Committee:

Thank you for the opportunity to submit written testimony before the House Judiciary Committee of Maryland on behalf of the Columbia University Justice Lab.

The Columbia University Justice Lab (Justice Lab) is a policy and research lab that seeks to foundationally reconceive justice policy through actionable research, community-centered policy development, and the sustained engagement of diverse constituencies. Our Youth Justice Initiatives seek to end the use of a punitive youth prison model in favor of a more community-centered approach by working with impacted-community leaders and the Youth Correctional Leaders for Justice, a group that unifies and elevates the voices of current and former youth correctional leaders in calling for and guiding states and localities in their efforts to end the use of youth prisons.

I write to you supporting House Bill 1187: the Juvenile Law - Juvenile Justice Reform that aims to improve the juvenile justice system in Maryland by raising the minimum age of juvenile court jurisdiction to 13 with limited exceptions; banning the use of juvenile jail and youth prison for low level offenses; limiting terms of probation; and facilitating diversion of children and youths out of the criminal legal system.

I am a former Director of the Department of Youth Rehabilitation Services in Washington, D.C. and Commissioner of New York City Probation, and currently co-chair [Youth Correctional Leaders for Justice](#) and [EXiT: Executives Transforming Probation and Parole](#). I am specifically in support of limiting out of home confinement for youth convicted of misdemeanors and technical violations of probation, a practice that is already working effectively in many jurisdictions. I also view moving away from home confinement for low level and technical violations as a best practice due to the reasons highlighted in this testimony.

I. Impacts of Probation and Home Confinement Surveillance

Probation in America has grown far larger than what most people realize. Originated as an individualistic and rehabilitative front-end alternative to incarceration, community corrections and home confinements are now a significant deprivation of liberty in their own right and a driver of mass incarceration. There are approximately 4.4 million people under probation and parole supervision in America, more than twice as many people as are incarcerated.¹ Far from being an aid to community reacclimation, community supervision too often serves as a revocation trap, a risk for imprisonment reincarcerating people under supervision for trivial rule violations that would rarely result in the imprisonment of someone not under supervision.²

Additionally, the racial gap in supervision resembles that of incarceration: although Black Americans make up 13 percent of the U.S. adult population, they account for 30 percent of those on probation or parole. When 233 probation reports for youth in family court were analyzed, sociologists, George S. Bridges and Sara Steen, found that probation officers ascribed Black youth's delinquency to negative attitudinal and personality traits while white youth's delinquency was ascribed to external environmental issues beyond their control.³ These perceptions led to a heightened assessment of the risk of Black American youth and more punitive sentencing recommendations for them, exacerbating the racial disparity in the criminal legal system.

Fortunately, increasingly sophisticated research has shown that we can responsibly reduce probation populations without jeopardizing public safety. Probation must be reformed to ensure a measured response to rule violations, so that each case is carefully considered and a decision to confine is carefully reviewed. Additionally, community corrections staff should be thoroughly trained on adolescent development and on positive youth development so they can deliver asset-focused, trauma-informed care to the youth under their supervision, and can recommend removal from the home only when other options are exhausted.

The terms of probation supervision can be significantly reduced by reserving the use of community corrections for *only* those who truly require supervision and reducing lengths of stay under community supervision to only as long as necessary to accomplish the goals of sentencing. Additionally, exercising parsimony in the use of supervision conditions to no more conditions than are required to achieve the objectives of supervision is crucial. Incentivizing progress on

¹ Kaebler, Danielle, and Mary Cowhig. 2018. *Correctional Populations in the United States, 2016*. Washington, DC: US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Available: <https://www.bjs.gov/content/pub/pdf/cpus16.pdf>

² Klingele, Cecelia. 2013. "Rethinking the Use of Community Supervision." *Journal of Criminal Law and Criminology* 103(4): 1015-1070. Available: <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7463&context=jclc>; Doherty, Fiona. 2016. "Obey All Laws and Be Good: Probation and the Meaning of Recidivism." *Georgetown Law Journal* 104(2): 291-354. Available: <https://georgetownlawjournal.org/articles/26/obey-all-lawsbe/pdf>

³ Bridges, G., & Steen, S. (1998). Racial Disparities in Official Assessments of Juvenile Offenders: Attributional Stereotypes as Mediating Mechanisms. *American Sociological Review*, 63(4), 554-570. Retrieved February 19, 2021, from <http://www.jstor.org/stable/2657267>

probation by granting early discharge for those who exhibit significant progress can also significantly increase successful outcomes especially for young people who are particularly motivated by such incentives. Moreover, eliminating or significantly curtailing supervision fees and, instead, preserving most or all of the savings from reducing probation and parole populations to focus those resources on improving community-based services and supports for people under supervision, would continue a cycle of reinvestment that would decrease the overall population under surveillance. All of these best practices have been endorsed by nearly 100 probation and parole executives and over 50 prosecutors in EXiT's [founding statement](#).

II. Examples in New York City

Starting in 2003, a variety of juvenile reform efforts were instituted in New York City that, by 2011, reduced the number of youth being sent to residential confinement by 55 percent.⁴ The city initiated a new detention risk-assessment instrument coupled with a range of detention alternatives that reduced detention and pre-adjudication arrest rates, likely also contributing to a reduction in youth committed post-adjudication.

In 2012, the legislature enacted Close to Home, which shifted responsibility for confining youth from New York state to the city. The Close to Home Initiative (C2H) created a continuum of non-residential and residential supports and programs for youth adjudicated delinquent in New York City. Among those programs include small home-like facilities located across the boroughs that are run by non-profit organizations.

Since bringing youth confinement into the city in smaller, non-correctional settings, New York City has continued to see the number of confinements fall considerably, as Close to Home has expanded its use of alternatives and introduced a series of practice reforms aimed at keeping youth in the community and close to their families. The city has implemented several additional programs that focus on building skills and competencies, such as working with specialized probation officers to build positive adult relationships, employment skills, and social-emotional competence. The city also utilizes The Arches Transformative Mentoring program (Arches) to maintain public safety through community-based programming and mentoring intervention that supports personal development as a proactive prevention of future criminal activity.⁵ In the four years following the passage of Close to Home, youth arrests in New York City plummeted by 52 percent, double the rate of decline in the four years preceding Close to Home.⁶

⁴ Ferone, J.J., Salsich, A., and Fratello, J. (2014). The Close to Home Initiative and Related Reforms in Juvenile Justice. New York, NY: Vera Institute of Justice. Available online: <http://www.nyc.gov/html/ceo/downloads/pdf/policybriefs/placement-brief.pdf>.

⁵ Lynch, M., Astone, N.M., Collazos, J., Lipman, M., Esthappan, S. (2018). Arches Transformative Mentoring Program: An Implementation and Impact Evaluation in New York City. New York, NY: Urban Institute. Available online: https://www.urban.org/sites/default/files/publication/96601/arches_transformative_mentoring_program.pdf.

⁶ Schiraldi, V. (2018). Does Keeping Youth Close to Home Really Matter? A Case Study. New York, NY: Columbia Justice Lab. Available online: https://justicelab.columbia.edu/sites/default/files/content/close_to_home_0.pdf.

Key to New York City's approach has been the development of a structured decision-making process implemented by the probation department, coupled with an expanded continuum of care to ensure that dispositional recommendations are fair, balanced, and make parsimonious use of placement options. This process helps match each young person to the level of supervision, surveillance, and type of services warranted, limiting the use of secure confinement to a last resort.

The Maryland General Assembly is convening at a pivotal moment to build on the state's successes in reducing youth crime, incarceration, and supervision. From research and experience, I know less is more when it comes to community supervision and placement and that over surveillance of youth in probation often results in a destructive cycle of juvenile involvement in the criminal legal system. I very much hope the House Judiciary Committee will take this opportunity to pass HB 1187: Juvenile Law - Juvenile Justice Reform.

Respectfully submitted,



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