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**Philadelphia City Council: Special Committee on Criminal Justice Reform**  
**Education for Youth in the Juvenile Justice System – Impact on Recidivism – May 23, 2016**

**Ashley C. Sawyer, Esq.**

Good afternoon and thank you for giving me the opportunity to speak to this committee. A special thank you to Mr. Kevin Bethel for your support of my work and this invitation. My name is Ashley C. Sawyer and I am a Stoneleigh Emerging Leader Fellow working at the Education Law Center-PA. I have spent the past 21 months doing research, direct legal representation and policy work to address the general education and special education needs of Philadelphia youth in the juvenile justice system. I have been hosted by the Education Law Center, whose mission is to ensure quality public education for all students in Pennsylvania. ELC's three program areas are; ensuring fair school funding, dismantling the School-to-Prison Pipeline and ensuring equal access to education for marginalized student groups including; youth in the juvenile justice system, youth in foster care, students of color, students with disabilities, students experiencing homelessness and other vulnerable populations.

Throughout my fellowship I have provided direct representation or advocacy to students who are currently in or were recently incarcerated in Pennsylvania's juvenile justice facilities. Across the board, every single student was several grade levels behind, and they often had unmet special education needs (learning disabilities in math or reading, and emotional or behavioral disorders). This is not unlike the national data; experts estimate that roughly 75% of the youth in the juvenile justice system have a special education need or diagnosis. These education challenges are often a result of unmet mental health needs, 70% of the youth in the juvenile justice system

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have a mental health disorder.<sup>1</sup> The NDTAC, which provides technical assistance and research support through the U.S. Department of Education has found that youth who are incarcerated are six (6) times more likely than out youth in public schools to have an emotional or behavioral disorder. At least 75% of the youth in the juvenile justice system have experienced traumatic victimization.<sup>23</sup> **These challenges should be met with quality school based mental health services, as well as trauma-sensitive, gender responsive, culturally competent and developmentally appropriate services rather than punishment and incarceration.**

Instead, the students I have worked with have been failed at every turn by their schools and the education system that is intended to create life opportunities for them. The challenges faced by these students are in many ways a byproduct of inadequate school funding and scarce resources for the schools that they attended prior to system involvement.

I met a student who had spent his life in Philadelphia public schools and would often act out in classroom settings and who had a history of truancy. It was after one of his review hearings that I first met him and he talked about the embarrassment of being in his late teens and not being able to read.

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<sup>1</sup> Shufelt, J., & Coccozza, J. (2006). Youth with mental health disorders in the juvenile justice system: Results from a multi-state prevalence study. Delmar, NY: National Center for Mental Health and Juvenile Justice.

<sup>2</sup> National Child Traumatic Stress Network, Justice System Consortium. (2009). *Helping traumatized children: Tips for judges*. Los Angeles, CA & Durham, NC: National Centers for Child Traumatic Stress.

<sup>3</sup> We should also highlight the unique victimization of girls in the JJ system, see generally, Human Rights for Girls, Sexual Assault to Prison Pipeline report. The overwhelming majority of girls in the juvenile justice system have experienced sexual assault/violence in their childhood.

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Another student I met was incarcerated in one of our state's secure facilities for a smaller offense that could have been addressed in the community, but instead, the special master on his case thought it would be best to keep him in placement in order to gain his high school diploma. That student had been to three different facilities throughout his teen years, and in fact, when I looked through his education records he had spent less than a full year in any community public school. The emotional toll of being away from his mother and siblings in a remote part of the state for over a year was causing the student to deteriorate and lose hope.

The practice of keeping youth in placement for longer lengths of time for the purpose of receiving an education goes against the mission of the Juvenile Act and as I will discuss further, greatly increases the chances that a child will reoffend.

**I want to highlight two key issues; (1) the low graduation rates of youth who have had contact with the juvenile justice system, and (2) the ways that incarceration deprives students of a quality education and often increases their chances of reoffending.**

According to Philadelphia Juvenile Probation, there are currently about 800 Philadelphia children incarcerated in Pennsylvania, this is a significant reduction from years past but it is still far too high. According to the federal government (OJJDP) Only 27% of youth in our juvenile justice system receive a high school diploma.

A recent Brown University/MIT study found, students are 39 percentage points less likely to graduate when they are sent to a facility<sup>4</sup>

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<sup>4</sup> "Assignment to a judge with a high incarceration rate in other cases leads to a significantly lower likelihood of high-school completion and a significantly higher likelihood of incarceration as an adult, including incarceration for violent crimes." (Thus, even when controlling for the type of offense, students

We can also look to the Project U-Turn data from CHOP Policy Lab. While the city has made significant strides toward improving high school graduation rates, the Philadelphia students who are least likely to graduate are students involved with juvenile justice system and pregnant/parenting students. These students are being left behind as the city makes efforts to increase high school graduation. The students that we leave behind as juveniles are much more likely to be the students filling the jails in Philadelphia if we do not do a better job of keeping them out of the system, and if they do end up in the system, keeping them out of facilities.

These are our most educationally vulnerable youth. In 2014 the United States Department of Justice and Department of Education released a guidance package which highlighted the education challenges of our national juvenile justice system and provided clarification around the laws protecting these students. Many of those recommendations are applicable in Pennsylvania.

Youth who are incarcerated<sup>5</sup> are:

- already several grade levels behind
- they are sent to facilities that consistently perform poorly;
  - very few certified teachers
  - shortened class time
  - several facilities that I visited offer only software based or worksheets for learning – no live instruction.

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who are incarcerated for any length of time are less likely to graduate.) Aizer & Doyle, *Juvenile Incarceration, Human Capital and Future Crime: Evidence from Randomly-Assigned Judges*, 2013

<sup>5</sup> I use this term for youth sent by a juvenile court judge for delinquency to RTFs, youth forestry camps, any court ordered facility where they are unable to leave without legal consequences.

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- Credits don't transfer in a timely fashion

Philadelphia contracts with facilities but does not hold them accountable for the **quality of education being offered**. We spend close to \$265/day per child with a special education need in a juvenile facility, but many facilities are not adhering to state and federal special education laws. Parents are denied meaningful participation in the special education process, students do not receive the support services they are entitled to and often come back to the district and feel too far behind to continue with school.

**I'm excited to be working with Philadelphia DHS to develop an educational assessment tool, but we should ensure that there are long-term practices put in place to monitor what takes place in the juvenile justice schools where we send our children.**

Another recommendation of the federal government is to develop more clear understandings (through MOUs) between agencies. Our agencies have operated in silos when it comes to the education of youth who are in the juvenile justice system. Pennsylvania Department of Education evaluates juvenile justice facilities only with regard to compliance with laws and with a focus on special education, and the juvenile justice agencies focus a great deal on the criminogenic needs of youth, often to the exclusion of their education needs.

Philadelphia youth are sent far away – this goes *against* the overwhelmingly clear research indicating that removing a child from the home/family/community causes more trauma rather than improving chances of rehabilitation. Vera Institute research found that youth who have regular visits by families have GPAs that are 5 points higher than students who do not have regular visits. But Philadelphia children are often sent to the Western part of our state or other

remote facilities, which makes it incredibly difficult for parents to participate in the special education process in the way that they are required to by federal law.

New York has shifted to keeping youth “Closer to Home,” because it works. The Federal Bureau of Prisons understands that people who are incarcerated are more likely to rehabilitate and less likely to reoffend if they are able to maintain their connections to family and the community. Why have we not tried to ensure the same opportunities for our children?

A. JCJC data on recidivism facility by facility (Former Stoneleigh fellow, 2011)

1. 53% of youth that reoffended had a detention/shelter or dispositional placement experience. The more dispositional experiences a juvenile had, the more likely they are to reoffend. <sup>6</sup>

A. When we fail to provide education for youth who are incarcerated, we increase the chances that they will end up in adult prison or return to juvenile justice facilities.

B. Note on students being sent to juvenile justice facilities for education purposes specifically – this increases recidivism (Pew Center data, longer a student is in placement, the more likely they are to reoffend.)

1. Data around family engagement – lack of family engagement while students are in facilities, increases chances of recidivism

B. Next steps:

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<sup>6</sup> P.107-108 Juvenile Court Judges Commission Recidivism Report, 2014.

1. Ensure adequate accountability and monitoring of education being provided in facilities – SDP spent \$64 million on outside institutions in the most recent audit, many of those resources went to juvenile justice facilities.
2. Philly pays \$265/day for each child with a special education need (disproportionately those are the students who end up incarcerated) So we need to do a better job ensuring education needs are met.
3. **Keep kids out of the juvenile justice system!!!!** – The first part of that is reducing suspensions, expulsions, transfers to AEDY (kids don't just wake up and end up in the system, it is often a series of system and policy failures throughout their lives, we cannot address recidivism without meeting the needs to send people into these systems). We need to utilize anti-racist, culturally competent restorative justice practices to ensure that we are not kicking students out of school and into the juvenile justice system. The racial disproportionality in our JJ system often began with the racial disproportionality in our school discipline.
  1. If they are in the system – **don't send them away**, data shows that is probably the greatest predictor of whether or not a child will recidivate – the decision to send them to placement. Just because a child has been adjudicated delinquent does not mean we have to incarcerate them. Our communities are no safer when we send children away just for them to come back and reoffend.
  2. **Serious investment in community based alternatives** – in a 2014 John Jay College report on the Youth Advocate Programs, an alternative to incarceration for youth who have been adjudicated delinquent found that most

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of the “high risk youth” that were referred to YAP remained arrest free.

Locally, our PYAP program has had impressive outcomes, which surpass that of many of the juvenile justice placements where we send our most vulnerable children.