

**FACTSHEET: JUVENILE JUSTICE**

Other nations protect public safety without imprisoning as large a percentage of their population, handle law-breaking behavior in ways less reliant on incarceration, and have different approaches to addressing complex social issues. This factsheet, derived from the longer report, *Finding Direction: Expanding Criminal Justice Options by Considering Policies of Other Nations*, considers the juvenile justice policies of five nations, Australia, Canada, Finland, Germany and England and Wales, alongside those of the U.S.



Young people are still developing mentally, physically and socially.<sup>1</sup> To what extent this immaturity is considered when a youth comes in contact with systems

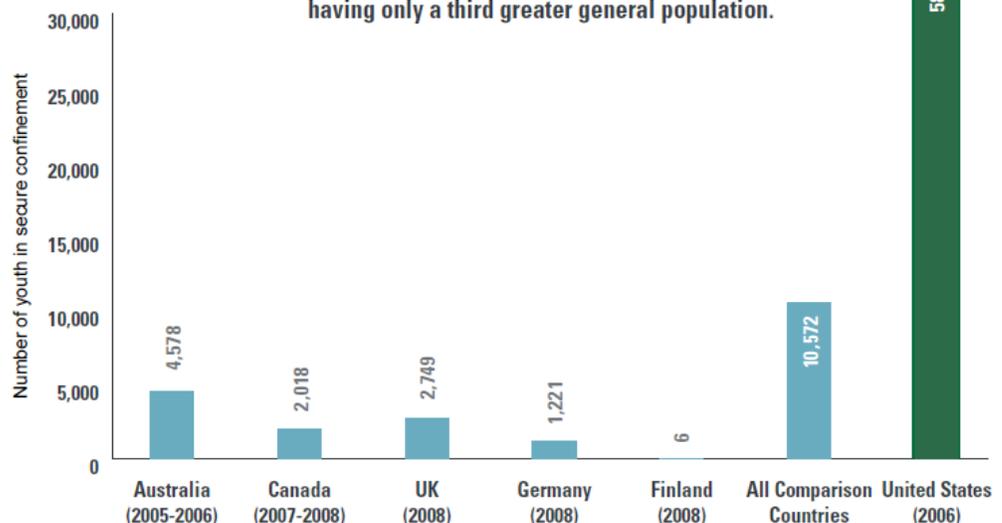
of law and order varies both within the United States and between the United States and other countries. As treatment and other supportive services yield positive benefits for youth and society,<sup>2</sup> a nation’s use of harsh sanctions against youth engaging in unlawful or delinquent behavior demonstrates that the primary motive of the justice system is to punish young people rather than to rehabilitate them.

A single repository of comparable data for the detention or confinement of youth is difficult to obtain because not all comparison nations conceptualize juvenile justice in the same way. However, comparing only the number of youth under the age of 18 held in secure confinement shows that the U.S. holds almost six times as many youth in secure

confinement as all other comparison nations.<sup>3</sup> In addition, on any given day as many as 7,500 youth can be found in adult lockup facilities in the United States,<sup>4</sup> a practice that other comparison nations do not follow.

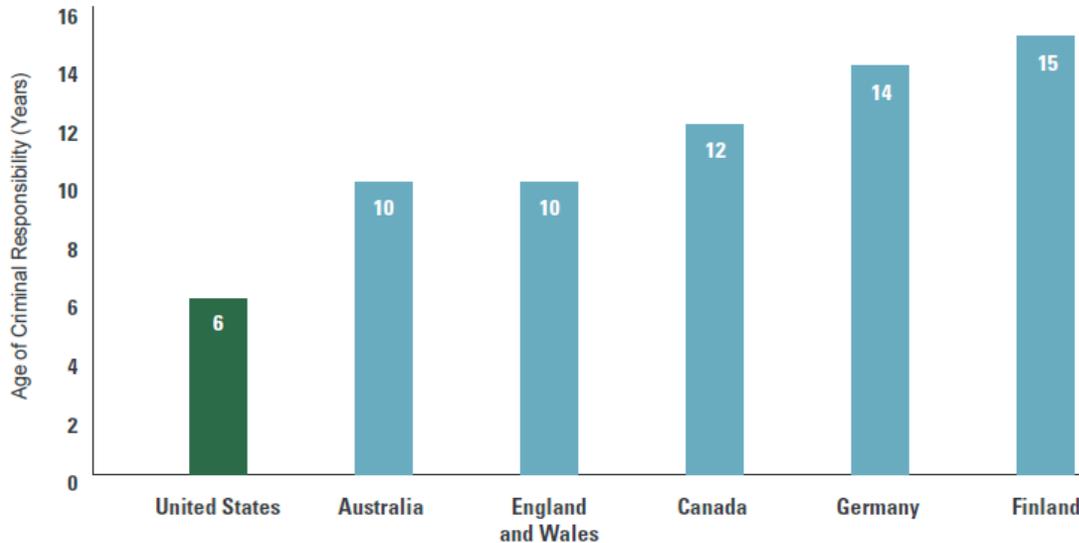
The age of criminal responsibility, i.e. when a person is judged to understand whether a behavior or action is illegal or wrong, varies greatly between comparison nations. The age at which a child is considered to be criminally responsible determines whether or not a child can be referred to either the

**The U.S. has almost 6 times as many youth in secure confinement as all comparison nations combined, despite having only a third greater general population.**



Sources: Australian Institute of Health and Welfare, Canberra, Juvenile justice in Australia 2005-06, [www.aihw.gov.au/publications/juv/jja05-06/jja05-06-c03.pdf](http://www.aihw.gov.au/publications/juv/jja05-06/jja05-06-c03.pdf), 2007, Secure Confinement, [www.kcl.ac.uk/depsta/law/research/icps/downloads/Lessons\\_from\\_abroad.pdf](http://www.kcl.ac.uk/depsta/law/research/icps/downloads/Lessons_from_abroad.pdf), Secure Confinement, [www.kcl.ac.uk/depsta/law/research/icps/downloads/Lessons\\_from\\_abroad.pdf](http://www.kcl.ac.uk/depsta/law/research/icps/downloads/Lessons_from_abroad.pdf), Includes Detention Facilities, Long Term Secure, Bootcamp, Sickmund, M., Sladky, T.J., Kang, W., & Puzanchera, C. (2008). "Easy Access to the Census of Juveniles in Residential Placement." Available: <http://ojjdp.ncjrs.gov/ojstatbb/ezacjrp/>, Council of Europe, Annual Penal Statistics – SPACE 1 – 2008 (Strasbourg, France: Council of Europe, 2010), [www.coe.int/t/e/legal\\_affairs/legal\\_co-operation/prisons\\_and\\_alternatives/statistics\\_space\\_i/PC-CP\(2010\)07\\_E%20SPACE%20Report%201.pdf](http://www.coe.int/t/e/legal_affairs/legal_co-operation/prisons_and_alternatives/statistics_space_i/PC-CP(2010)07_E%20SPACE%20Report%201.pdf)

## U.S. law allows for very young children to be charged with crimes.



\* Age of criminal responsibility varies by state

Source: John Muncie, *The 'Punitive Turn' in Juvenile Justice: Cultures of Control and Rights Compliance in Western Europe and the USA* (London: The National Association for Youth Justice, 2008); Canadian Department of Justice [www.justice.gc.ca/eng/pi/yj-ij/prt/hps.html](http://www.justice.gc.ca/eng/pi/yj-ij/prt/hps.html); The age of criminal responsibility (Canberra: The Australian Institute of Criminology, 2005) [www.aic.gov.au/publications/current%20series/cfi/101-120/cfi106.aspx](http://www.aic.gov.au/publications/current%20series/cfi/101-120/cfi106.aspx).

juvenile or criminal justice systems. This is particularly important in the U.S., where a youth can be tried as an adult. Depending on the state, youth as young as six can be held criminally responsible in the U.S. Such a low age of criminal responsibility likely adds to the total number of youth held in secure facilities in the U.S.

Although the United States founded the juvenile court at the turn of the 20<sup>th</sup> century and it served as a model for other nations, the principles of rehabilitation and age-appropriate responses that guided it have been severely eroded; this is reflected in the number of youth held in secure facilities, tried as adults, held in adult jails, and given life without parole sentences.

### **Other nations place a greater focus on pro-social options instead of incarceration for young people.**

Serving time in a juvenile facility in the United States has been found to be a risk factor for later

involvement in the adult criminal justice system,<sup>5</sup> as well as a host of other negative social outcomes.<sup>6</sup> Limiting the contact that youth have with secure confinement, both by using community-based alternatives and decreasing their overall contact with the justice system, should reduce the number of people in prison in the long term.

The U.S. relies heavily on incarceration and the justice system instead of treatment, rehabilitation, or restorative justice for youth in conflict with the law, although options like those exist in the U.S. (see text box "Innovation and Promising Policies in the U.S."). U.S. policy tends to first find fault in the youth for committing a crime, while other nations tend to ask why the crime was committed and what services can and should be provided to help the young person have more positive life outcomes. Finland and Germany, in particular, take a very different approach to youth who have committed some offense:

## Convention on the Rights of the Child

United Nations Convention on the Rights of the Child, ratified by every country except the United States and Somalia,<sup>1</sup> sets out guidelines for protecting the rights of youth in the criminal justice system and ensuring appropriate treatment given their age and cognitive development. These include: children should not be put in prison with adults; when detained, they should be able to keep in contact with their families; they should not be treated cruelly when they break the law; and they should not be sentenced to death or life imprisonment without possibility of release.<sup>1</sup> While not all of the countries consistently have been found in compliance with the Convention (Finland, Germany, and the UK have repeatedly been criticized by the UN for insufficient distinctions between the adult and juvenile systems),<sup>1</sup> the ratification of the Convention shows a sustained effort to increase voice, agency, and protections for youth in the juvenile justice system.

- Finland focuses heavily on welfare, using “Care Orders” that connect youth to social services and supports.<sup>7</sup> In 2007, only three people under the age of 18 were in custody.<sup>8</sup> By viewing crime or status offenses as a symptom of larger social problems as evidence of individual emotional or behavioral issues, Finland is able to successfully avoid incarcerating youth in prisons. This attitude of rehabilitation and treatment toward young people can also be seen in the adult system, and contributes to low incarceration rates in the country.
- Instead of detention, the German system focuses heavily on “educative and disciplinary measures” that provide for social and economic supports and reparation for the offense.<sup>9</sup> Sentences of educative measures are often available to people up to the age of 21 for a first offense. Recognizing that “harsher sanctions do not reduce recidivism and, conversely, that ‘mildness pays off’”<sup>10</sup> these nations are able to craft systems that help steer potentially troubled young people to a positive, pro-social path instead of starting a cycle of incarceration.

Policies centered on interventions based on risk are steeped in a philosophy of fixation on what transgressions young people might commit.<sup>11</sup> Instead of a proactive, welfare and health-based approach that seeks to ensure success and support, the justice system is used as an authoritarian tool that metes out punishment and establishes a system of correctional control.

Of course, the U.S. is home to a large number of innovative and successful programs and services for youth that come into contact with the law that focus

on rehabilitation and improving life outcomes,<sup>12</sup> but these programs are not widely available to all who need them. At the same time, jurisdictions in the U.S. continue to transfer youth to adult courts, imprison youth for status offenses like running away, and house youth in jails that also house adults. Shifting the response to youth who come into conflict with the law back to what was established by the juvenile court and is still reflected in the practices of many comparison nations would reduce the number of youth in juvenile secure confinement, as well as in prison populations.

### Policy Opportunities

**Raise the age of criminal responsibility:** Raising the age at which a child can be referred to the juvenile or criminal justice system from six years of age to one that is more reflective of a youth’s development would have some effect on the number of youth in secure custody in the U.S. and would begin to change the culture of punitiveness towards children.

**End transfers to adult courts:** No other comparison nation transfers as many youth to adult criminal courts as the United States or at such young ages. Youth transferred to adult courts are at risk of sexual assault, are not guaranteed education or other rehabilitative services, and are more likely to be rearrested for another offense later in life than a youth who was not transferred.<sup>13</sup>

**Provide services first:** Finland’s system of “Care Orders” connect youth with services, like treatment, counseling, education, or other services before punitive measures are used. Germany’s responses to youth that come into contact with the law combine education, accountability and restoration before incarceration.

## INNOVATION AND PROMISING POLICIES IN JUVENILE JUSTICE FROM THE U.S.

In some ways, the United States is a leader in developing innovative practices and policies to address the needs of youth who come in contact with the law. These innovations are not available to all youth, but where they are, they have been effective.

**Juvenile Detention Alternatives Initiative (JDAI):** Founded in 1992 in response to the rapidly growing number of youth in pre-adjudication detention facilities, JDAI works directly with localities across the U.S. to reduce the number of youth in detention. Participating cites reported reduced numbers of youth in detention, lower youth crime rates, and reductions in racial disparities.<sup>14</sup>

**Models for Change:** Established by the John D. and Catherine T. MacArthur Foundation, Models for Change seeks to institute systemic and lasting reforms in juvenile justice systems in four core states that can be used as models for other states. Models for Change also established three action networks to reduce disproportionate minority contact, improve juvenile indigent defense, and better address mental health.<sup>15</sup>

**Missouri Model:** Missouri began by investing in community-based alternatives to incarceration for youth and then changed the philosophy and operation of its long-term secure confinement facilities to provide counseling and education in a more home-like setting.<sup>16</sup> In 2006, Missouri's recidivism rate was 8.7 percent, lower than other states.<sup>17</sup> The state also realized significant cost savings, spending approximately \$94 for each youth aged 10-17, compared to the surrounding eight states that spent, on average, \$140 per young person.<sup>18</sup>

**Changing the Fiscal Architecture:** States including Ohio, New York, and Illinois changed the funding structure of their juvenile justice systems so that counties within the states have a financial incentive to place youth in community-based alternatives, rather than the state-run youth correctional facilities. Although the specific strategies differ, the states have sent fewer youth to long-term secure confinement and realized cost savings.<sup>19</sup>

**Evidence-Based Practices:** Although there are many community-based alternatives to incarceration for youth, there are six that have been rigorously evaluated and have been shown to reduce recidivism, improve life outcomes for youth, and save taxpayer dollars. These include Multi-Systemic Therapy, Functional Family Therapy, Aggression Replacement Training, Family Integrated Transitions, Coordination of Services, and Victim Offender Mediation.<sup>20</sup>

**Roper v. Simmons:** In 2004, the United States Supreme Court declared the death penalty for people who committed their offense while under age 18 unconstitutional.<sup>21</sup>

**Graham v. Florida:** In 2010, the U.S. Supreme Court rejected life sentences without the possibility of parole for youth not convicted of homicide.<sup>22</sup>

Justice Policy Institute is a national nonprofit organization that changes the conversation around justice reform and advances policies that promote well-being and justice for all people and communities. To read the full report, *Finding Direction: Expanding Criminal Justice Options by Considering Policies of Other Nations*, please visit [www.justicepolicy.org](http://www.justicepolicy.org).

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<sup>1</sup> Beatrice Luna, "Brain and Cognitive Processes Underlying Cognitive Control of Behavior in Adolescence," University of Pittsburgh, Oct. 2005..

<sup>2</sup> Elizabeth Drake, *Evidence-Based Juvenile Offender Programs: Program Description, Quality Assurance, and Cost* (Olympia: Washington State Institute for Public Policy, 2007) [www.wsipp.wa.gov](http://www.wsipp.wa.gov)

<sup>3</sup> Australian Institute of Health and Welfare, Canberra, Juvenile justice in Australia 2005-06, [www.aihw.gov.au/publications/juv/jjia05-06/jjia05-06-c03.pdf](http://www.aihw.gov.au/publications/juv/jjia05-06/jjia05-06-c03.pdf), 2007, Secure Confinement, [www.kcl.ac.uk/depsta/law/research/icps/downloads/Lessons\\_from\\_abroad.pdf](http://www.kcl.ac.uk/depsta/law/research/icps/downloads/Lessons_from_abroad.pdf), Secure Confinement, [www.kcl.ac.uk/depsta/law/research/icps/downloads/Lessons\\_from\\_abroad.pdf](http://www.kcl.ac.uk/depsta/law/research/icps/downloads/Lessons_from_abroad.pdf), Includes Detention Facilities, Long Term Secure, Bootcamp; Melissa Sickmund and others, "Easy Access to the Census of Juveniles in Residential Placement." 2008. <http://ojjdp.ncjrs.gov/ojstatbb/ezacjrp/>, Council of Europe, *Annual Penal Statistics – SPACE I – 2008* (Strasbourg, France: Council of Europe, 2010), [www.coe.int/t/e/legal\\_affairs/legal\\_co-operation/prisons\\_and\\_alternatives/statistics\\_space\\_i/PC-CP\(2010\)07\\_E%20SPACE%20Report%20I.pdf](http://www.coe.int/t/e/legal_affairs/legal_co-operation/prisons_and_alternatives/statistics_space_i/PC-CP(2010)07_E%20SPACE%20Report%20I.pdf)

<sup>4</sup> Campaign for Youth Justice, "National Statistics" (Washington, DC: Campaign for Youth Justice, 2010). [www.campaignforyouthjustice.org/national-statistics.html](http://www.campaignforyouthjustice.org/national-statistics.html)

<sup>5</sup> Thomas P. Bonczar and Allen Beck, *Lifetime Likelihood of Going to State or Federal Prison* (Washington, DC: Bureau of Justice Statistics, 1997). <http://bjsdata.ojp.usdoj.gov/content/pub/pdf/Llgsfp.pdf>

<sup>6</sup> Barry Holman and Jason Ziedenberg, *Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities* (Washington, DC: Justice Policy Institute, 2006). [www.justicepolicy.org/images/upload/06-11\\_REP\\_DangersOfDetention\\_JJ.pdf](http://www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf)

<sup>7</sup> John Pitts and Tarja Kuula, *Incarcerating Young People: An Anglo-Finnish Comparison* (London: The National Associate for Youth Justice, Vol. 5 No. 3, 2005)

<sup>8</sup> John Muncie, *The 'Punitive Turn' in Juvenile Justice: Cultures of Control and Rights Compliance in Western Europe and the USA* (London: The National Associate for Youth Justice, 2008)

<sup>9</sup> Jörg-Martin Jehle, *Criminal Justice in Germany*, 2009.

<sup>10</sup> Dietrich Oberwittler and Sven Höfer, "Crime and Justice in Germany: An Analysis of Recent Trends and Research," *European Journal of Criminology*, vol. 2, no. 4 (2005).

<sup>11</sup> John Muncie and Barry Boldson, "England and Wales: The New Correctionalism" in *Comparative Youth Justice* (London: Sage Publications, 2006).

<sup>12</sup> John Muncie and Barry Goldson, eds., "Editor's Introduction" in *Comparative Youth Justice* (London: Sage Publications, 2006).

<sup>13</sup> Campaign for Youth Justice, *The Consequences Aren't Minor: The Impact of Trying Youth as Adults and Strategies for Reform* (Washington, DC: Campaign for Youth Justice, 2007).

[www.campaignforyouthjustice.org/Downloads/NEWS/National\\_Report\\_consequences.pdf](http://www.campaignforyouthjustice.org/Downloads/NEWS/National_Report_consequences.pdf), Campaign for Youth Justice, *Key Facts: Youth in the Justice System* (Washington, DC: Campaign for Youth Justice, 2010).

[www.campaignforyouthjustice.org/documents/FS\\_KeyYouthCrimeFacts.pdf](http://www.campaignforyouthjustice.org/documents/FS_KeyYouthCrimeFacts.pdf)

<sup>14</sup> Annie E. Casey Foundation, "Juvenile Detention Alternatives Initiative," November 17, 2010.

[www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative.aspx](http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative.aspx)

<sup>15</sup> John D. and Catherine T. MacArthur Foundation, "Models for Change," November 17, 2010.

[www.modelsforchange.net/index.html](http://www.modelsforchange.net/index.html)

<sup>16</sup> Missouri Juvenile Justice Association. 2003. *Celebrating 100 Year of Juvenile Justice in Missouri: 1903-2003*. Online at <http://mjja.org/images/100Years.pdf>., Mendel, Richard A. 2001. *Less cost, more safety: Guiding lights for reform in juvenile justice*. Washington, DC: American Youth Policy Forum.

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<sup>17</sup> Missouri Department of Social Service. 2006. *Division of Youth Services Annual Report: Fiscal Year 2006*.

[www.dss.mo.gov/re/pdf/dys/dysfy06.pdf](http://www.dss.mo.gov/re/pdf/dys/dysfy06.pdf).

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<sup>18</sup> Richard A. Mendel, *Less cost, more safety: Guiding lights for reform in juvenile justice*. (Washington, DC: American Youth Policy Forum, 2001). [www.aecf.org/upload/PublicationFiles/less%20cost%20more%20safety.pdf](http://www.aecf.org/upload/PublicationFiles/less%20cost%20more%20safety.pdf).

<sup>19</sup> Justice Policy Institute, *The Costs of Confinement* (Washington, DC: Justice Policy Institute, 2009).

<sup>20</sup> Steve Aos, *Washington State's family integrated transitions program for juvenile offenders: Outcome evaluation and benefit-cost analysis* (Olympia, WA: Washington State Institute for Public Policy, 2004). [www.wsipp.wa.gov/rptfiles/04-12-1201.pdf](http://www.wsipp.wa.gov/rptfiles/04-12-1201.pdf).

<sup>21</sup> *Roper v. Simmons*, 2004

<sup>22</sup> *Graham v. Florida*, 2010