

CAMPAIGN FOR
YOUTH JUSTICE

BECAUSE THE CONSEQUENCES AREN'T MINOR

Grace Bauer, Parent, and Organizer of Families of Incarcerated Children
Campaign for Youth Justice

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Subcommittee on Crime, Terrorism, and Homeland Security

Hearing on “Keeping Youth Safe While in Custody –
Sexual Assault in Adult and Juvenile Facilities”

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Good afternoon Chairman Scott, Ranking Member Gohmert, and other members of the Subcommittee and thank you for having me here to testify. I would like to thank you - and everyone here today - for focusing on an issue of critical importance that for decades was ignored and treated with sneers and ignorance.

My name is Grace Bauer and I am the parent of a youth who has been involved with both the juvenile and the adult criminal justice system. I also work with the Campaign for Youth Justice organizing parents who have had their sons and daughters go through these systems. The Campaign is a national organization working to end the practice of prosecuting youth in adult court and to promote more effective approaches in the juvenile justice system as an effective alternative for these youth.

As a parent of a young man who has been involved in the system, I unfortunately know better than most that individuals who are incarcerated are not valued - no matter that those incarcerated in America number, shamefully, in the millions and their families who love and care for them number in the tens of millions. It is only through the hard work of many, such as the members of the National Prisoner Rape Elimination Commission (NPREC) and the Members of Congress who worked to pass the Prison Rape Elimination Act, as well as national non-profit organizations such as Just Detention that this work is discussed at all.

As you know, the recently released BJS study found that - within the past year - over 13 percent of youth in juvenile facilities reported sexual victimization by either staff or other youth in the facility. In addition, we know that this abuse extends to youth who are prosecuted in the adult criminal justice system. The NPREC found that “more than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk for sexual abuse” and recommended that youth be housed separately from adults.

Although this study saddened me, as an advocate and organizer of the families of incarcerated children it certainly didn't surprise to me. As you listen today to what have become the nightmares of my life in the past nine years, I ask that you hear the voices of the parents and their children that can't be here today.

In 2001, my 13 year old son - who weighed 90 pounds soaking wet - was adjudicated delinquent and sentenced to five years in a Department of Corrections facility. My son's crime was stealing a stereo out of a truck with two other boys. At the time, I believed the promises of the probation officer and staff at the juvenile justice department that they would care for my son and get him back on the right track through a program called STOP. I also never asked for an attorney for my son after the probation officer told me an attorney would just stand in the way of my son getting the help the state could provide. I believed my son would have access to treatment to help him deal with the issues he faced.

Unfortunately, I could not have been more wrong. In 1998, *The New York Times* referred to the facility my son was held as a place "so rife with brutality, cronyism and neglect that many legal experts say it is the worst in the nation." My 13 year old boy had to fight for food and do without when his size failed to hold off other kids suffering from malnutrition and desperation. The education he needed - along with the other nearly 400 kids - consisted of a few worksheets, no certified teachers, and school hours filled not with instruction, but with military like exercises done in the heat of the south's brutal summers. The mental health care the family court judge ordered was non-existent (although it is difficult to see how one could get meaningful mental health treatment in a facility where children live with filth, neglect and rampant abuse). I eventually learned that the STOP program, which the probation offices said would help, had a 70% recidivism rate.

All of this happened five and half hours away from where we lived and many times we traveled all five and half of those hours only to be told our son was denied visitors that day or that he was in the infirmary and we would not be able to see him. The times we did see him, we saw the evidence of the physical abuse he was enduring day after day, mostly at the hands of poorly paid and under trained staff. Black eyes, broken teeth, burst ear drums, broken jaws, broken arms were the daily circumstances of these young people; 140 kids a month were being treated for serious injuries. It wasn't until I saw the evidence of an assault on my son's body that I sought the advice of an attorney. By then it was too late. The state now controlled every aspect of my son's life and I had no say in his treatment or care, nor did I have any power to stop the abuse and neglect of my son. All these years later and hundreds of similar experiences recounted to me by other parents, I still cringe at the level of my ignorance and how little the system people told us.

The emotional toll on my son and so many others like him can't be measured by statistics. Shortly after being released my son was diagnosed with Post Traumatic Stress Disorder. The consequences of that abuse and neglect have had a substantial impact on his life and still today affect both his emotional health and his future. The emotional toll on my family and the families of other children can only be described as complete hell.

I wish I could say that what happened to my son was a rarity or that we have come so far in the last nine years that these things don't happen to children anymore. Let me be loud and clear, there is not one week that goes by in the last nine years that I haven't heard the pain and pleas of other parents in the same or similar situations: The 13-year-old boy who gets put into a cell with an older, bigger youth and is brutally raped while prison guards stand outside the cell and take bets on which child will be the rapist (the "winner") and which will be the raped. The 14-year-old girl who suffers a life of physical and sexual assault at the hands of her father and begins leading a life on the streets. After she is locked up, another set of authority figures repeatedly rape her with no where to run this time. The mother who can't approach her son without alerting him she is coming because, if he doesn't know she's coming, he may have a panic attack or strike out in blind fear of another attack.

What I hate most is after all this time I still don't have good answers for these families any more than anyone had an answer for me. We do nothing to protect those behind bars and instead assume that this is part of the punishment they deserve. No one deserves to be violated but it is even more heinous when it happens at the hands of those with a mandate to keep our children safe. I ask that you consider how we could expect an already vulnerable group of children to live through such violence and neglect all within plain sight of authority and to somehow emerge on the other side as a well adjusted person ready to return and give back to our society. I believe this is why we - as a country - have outrageously high recidivism rates.

Until the NPREC hearings I wondered if this nation had the courage or the political will to look beyond media hype and the political grandstanding on being tough on crime to get to the heart of what happens to millions that belong the next generation of Americans. Fortunately, we have individuals that are tough, but also smart about what the criminal and juvenile justice systems are incapable of doing for us as a society. These individuals are unafraid to go beyond the rhetoric and see the horrendous damage done to those who are the most vulnerable and most unrepresented in this country.

After years of documented cases of sexual assault to children in juvenile facilities, I find it appalling that state administrators still doubt the outcomes of such studies and reports. Many administrators and other state government authorities continue to doubt the repeated findings of sexual assault in their facilities and can't accept the overwhelming evidence that it exists. For me, this means that we must recognize what we can expect of state juvenile justice authorities when it comes to protecting our children and the answer falls extremely short of our expectations.

The family court judge in my son's case believed he had no alternative to sending my son away to a state facility and some practitioners believed they were sending children to facilities that would improve their lives and help them succeed. I don't blame these people for doing what they believed to be right. Instead, the blame I have felt is directed at those who have heard my son's experience and the experience of other families and their children and failed to act.

Therefore, in closing, I echo *The Washington Post* editorial printed this weekend and call on Congress to reauthorize the Juvenile Justice and Delinquency Prevention Act, which would provide protections to youth in both juvenile and adult facilities. I also call on the Department of

Justice to fully implement the recommendations of the National Prison Rape Elimination Commission.

Every day that passes without these policies in place, countless numbers of children suffer. And if the statistics in the BJS reports are not enough, I ask you to consider one of these children, who have been beaten, assaulted and raped with no recourse or power to stop it, what if that child was the child's picture you carry in your pocketbook or wallet? Try for just a few moments to understand the fear you would have for your loved one in a similar situation. Imagine too the complete helplessness of having no way to stop the sickening violence or even having a way in which to address it.

Perhaps then we would not continue to hold hearings, create another commission or issue more reports. Instead, I believe if these were your children, we would do what is right and take action immediately to protect our future and the lives of all of our children.

Thank you for your time and for your efforts on behalf of those whose voices you may never hear.