The Deinstitutionalization of Status Offenders Core Requirement

Enacted in 1974 and most recently reauthorized in 2002 with bi-partisan support, the Juvenile Justice and Delinquency Prevention Act (JJDPA) provides for a nationwide juvenile justice planning and advisory system spanning all states and territories; federal funding for delinquency prevention and improvements in state and local juvenile justice programs and practices; and operation of a federal agency (OJJDP) dedicated to training, technical assistance, model programs, and research and evaluation, to support state and local efforts. The ABA supports the JJDPA but strongly urges Congress to amend it to require states receiving funding under the act to phase-out the validated court order (VCO) exception which allows for the institutionalization of status offenders.

A status offender is a juvenile charged with or adjudicated for conduct that would not be a crime if committed by an adult. The most common examples of status offenses are chronic or persistent truancy, running away, being ungovernable or incorrigible, violating curfew laws, or possessing alcohol or tobacco. In 2004, over 400,000 youth were arrested or held in limited custody by police because of a status offense, approximately 18 percent of all juvenile arrests that year.

These non-criminal behaviors are often caused by external factors such as domestic violence, substance abuse, physical or sexual abuse, family dysfunction, unaddressed special education needs and chronic health problems. States are permitted to place juveniles who are arrested for status offences in secure detention if they violate a court order making them vulnerable to victimization and at risk of developing delinquent behaviors.

The ABA urges Congress to include an amendment to the JJDPA to stop the incarceration of youths who are only accused of status offences because:

- **Secure Detention of Status Offenders Threatens Public Safety.** Commingling non-criminal youth with delinquent youth increases delinquent behaviors among the non-criminal youth, further compromising public safety. Studies have shown that prior incarceration was a greater predictor of recidivism than gang membership, carrying a weapon, or poor parental relationships.

- **Secure Detention is not a Cost-Effective Means of Treating Status Offenders.** According to the National Juvenile Detention Association, the annual average cost per year of a detention bed ranges between $32,000 and $65,000 per year. Community-based and school-based interventions have proven to be more cost-effective for treating status offenders than incarceration.

- **Secure Detention Endangers Children and Youth.** Research demonstrates that secure detention greatly increases young people’s risk of victimization, abuse, and suicide. Youth are often warehoused in overcrowded, understaffed facilities that breed violence and neglect. This is not an appropriate option for any youth; but especially not for youth only accused of status offenses, many of whose behavior is caused by or related to their being abused or neglected.

- **Secure Detention Fails to Address the Factors Leading to Status Offenses.** Secure detention does not help to resolve the factors that led to the status offense. In fact, incarcerating youth for non-criminal behaviors further impedes school engagement and family functioning. For example, a Department of Education study showed that 43 percent of incarcerated youth receiving remedial education services in confinement did not return to school after release, and another 16 percent enrolled in schools dropped out after only 5 months. In contrast, another federally funded evaluation found that detention alternatives, such as Runaway and Homeless Youth Act programs, doubled school participation and increased college attendance.