

HUMAN RIGHTS WATCH

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July 14, 2008

The Honorable Patrick J. Leahy
Chairman, Committee on the Judiciary
United States Senate
433 Russell Senate Office Building
Washington, DC 20510-4502

The Honorable Arlen Specter
Ranking Member, Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, DC 20510-3802

Re: Human Rights Watch Supports a Provision in the Juvenile Justice and Delinquency Prevention Reauthorization Act to Improve the Treatment of Juveniles with Mental Health or Substance Abuse Disorders

Dear Chairman Leahy and Senator Specter:

Human Rights Watch writes in strong support of a provision to strengthen the Juvenile Justice and Delinquency Prevention Reauthorization Act (JJDPRA) of 2008, S. 3155, by improving the treatment of juveniles with mental health or substance abuse disorders.

Mental health and substance abuse problems are widespread and pervasive among children in the juvenile justice system.¹ Human Rights Watch has issued reports on the lack of appropriate care for mentally ill prisoners² and on the juvenile justice system in general.³ Based on our research, we urge the Committee to strengthen the

¹ See National Center for Mental Health and Juvenile Justice, *Key Issues*, <http://www.ncmhjj.com/faqs/default.asp>. See also, Human Rights Watch, *Custody and Control: Conditions of Confinement in New York's Juvenile Prisons for Girls* (New York: Human Rights Watch, 2006), <http://hrw.org/reports/2006/us0906/>, chapter V. Additionally, in a 2002 report, researchers documented the high rates of psychiatric disorders among youth in juvenile detention throughout the country. Linda Teplin et al., "Psychiatric Disorders in Youth in Juvenile Detention," *Archives of General Psychiatry*, 59 (2002), pp. 1133-1143.

² See Human Rights Watch, *Ill-Equipped: US Prisons and Offenders with Mental Illness* (New York: Human Rights Watch, 2003), <http://www.hrw.org/reports/2003/usa1003/>.

³ For a list of reports, see http://www.hrw.org/children/juvenile_justice.htm.

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Juvenile Justice and Delinquency Prevention Reauthorization Act and improve the treatment of juveniles with mental health or substance abuse disorders. Strengthening the provision of mental health treatment for children in the juvenile justice system will also comport with US treaty obligations under international law.

The treatment of mentally ill incarcerated children is governed by international standards set forth in the International Covenant on Civil and Political Rights,⁴ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁵ the Convention on the Rights of the Child,⁶ the UN Standard Minimum Rules for the Administration of Juvenile Justice,⁷ the UN Rules for the Protection of Juveniles Deprived of their Liberty,⁸ the UN Standard Minimum Rules for the Treatment of Prisoners,⁹ and the UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.¹⁰ In accordance with these international standards, Human Rights Watch urges the Committee to incorporate language in the Juvenile Justice and Delinquency Prevention Reauthorization Act to promote early identification of mental health and substance abuse disorders among juveniles in the justice system. The Act should also increase training for staff and juvenile justice stakeholders in mental health and substance abuse issues, and expand the use of intensive home-based and community-based services for juveniles with mental health or substance abuse problems who come into contact with the juvenile justice system.

Screening and assessment are important first steps in the provision of mental health care.¹¹ S. 3155 should amend current law to improve the identification of juveniles with mental health or substance abuse disorders through an initial mental health screening and assessment. Such an improvement would be consistent with

⁴ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by the United States of America on June 8, 1992.

⁵ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), adopted December 10, 1984, G.A. Res. 39/46, U.N. Doc. A/39/51, entered into force June 26, 1987, ratified by the United States of America on October 21, 1994.

⁶ Convention on the Rights of the Child, (CRC) adopted November 20, 1989, G.A. Res. 44/25, U.N. Doc. A/RES/44/25, entered into force September 2, 1990, signed by the United States of America on February 16, 1995.

⁷ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“Beijing Rules”), adopted November 29, 1985 by General Assembly Resolution 40/33.

⁸ United Nations Rules for the Protection of Juveniles Deprived of their Liberty (“UN Rules”), adopted December 14, 1990 by General Assembly Resolution 45/113.

⁹ United Nations Standard Minimum Rules for the Treatment of Prisoners (“Standard Minimum Rules”), U.N. ECOSOC Res. 663C and 2076, adopted July 31, 1957 and May 13, 1977.

¹⁰ UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, adopted December, 17 1991 by General Assembly resolution 46/119.

¹¹ See *Custody and Control*, chapter V.

international standards, which prescribe complete mental health assessments of incarcerated children as soon as possible after they are admitted to a facility.¹²

Human Rights Watch also supports strengthening language that calls for training for individuals involved in making decisions regarding the disposition of cases involving youth who enter the juvenile justice system. The importance of training juvenile justice stakeholders to promote rehabilitation and provide positive role models is reflected in detailed international guidelines regarding staff selection, qualifications, remuneration, and training.¹³ According to international standards, juvenile justice services are to be provided “with a view to improving and sustaining the competence of personnel involved in the services, including their methods, approaches and attitudes.”¹⁴

Language providing for increased diversion of juveniles with mental health or substance abuse disorders into home-based or community-based care would facilitate the rehabilitation of young people who need services and treatment, rather than incarceration. By including this provision, and focusing on the ability of youth to rehabilitate and integrate into society, given sufficient support and care, the JJDPA will comport with the International Covenant on Civil and Political Rights (ICCPR), a treaty the United States ratified in 1992. Article 14.4 of the ICCPR requires that governments shall “[i]n the case of juvenile persons ... take account of their age and the desirability of promoting their rehabilitation.”

For the forgoing reasons, Human Rights Watch urges the Senate Judiciary Committee to take this important opportunity to strengthen the Juvenile Justice and Delinquency Prevention Reauthorization Act and improve the treatment of juveniles who suffer mental health or substance abuse disorders.

Thank you for your consideration, and please feel free to contact me if you would like any further information.

Sincerely,



Carol Chodroff
Advocacy Director, US Program

cc: Senate Judiciary Committee Members
Senator Edward M. Kennedy
Senator Joseph R. Biden, Jr.

¹² UN Rules, rule 27; Standard Minimum Rules, paras. 46-48.

¹³ UN Rules, rules 81-83, 85; Standard Minimum Rules, paras. 46-48.

¹⁴ Beijing Rules, para. 1.6.

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Senator Dianne Feinstein
Senator Russell D. Feingold
Senator Charles E. Schumer
Senator Richard J. Durbin
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