

REPORT OF THE TASK FORCE ON JUVENILE COURT JURISDICTION

DECEMBER 1, 2013

HB 786 (Ch. 639)
MSAR# 9558

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EXECUTIVE SUMMARY

During the 2013 session of the General Assembly, Chapter 639, 2013 Laws of Maryland (HB 786)¹ established a Task Force on Juvenile Court Jurisdiction (Task Force). The Task Force was directed to issue a report in six months including:

- A study of current laws relating to the jurisdiction of the juvenile court;
- A review of current research on best practices for handling offenses committed by youth in the court system; and
- Recommendations regarding:
 - whether or not to eliminate the existing exclusionary offenses that automatically result in adult charges for youth and restore juvenile court discretion;
 - the benefits of retaining youth under the jurisdiction of the juvenile court;
 - the methods to reduce the number of youth in adult detention centers and prisons; and
 - the long-term fiscal impact of treating youth in the adult criminal system.

The Task Force was chaired by Tammy Brown, Executive Director of the Governor's Office of Crime Control & Prevention (GOCCP). The Task Force was comprised of representatives from various state and local government agencies, advocates, and juvenile justice professionals to examine current laws relating to juvenile court jurisdiction and best practices for handling youth under eighteen who are automatically charged as adults under existing law. The Task Force met five times between August and November 2013. Two workgroups were established; each met once to assess research on comparative outcomes of youth charged as adults versus youth retained or transferred to the juvenile system and to identify data gathering mechanisms which support objective responses to the questions posed by the legislature.

Youth end up in adult court by way of two mechanisms. The first mechanism is waiver of juvenile court jurisdiction. Youth aged 15 and older accused of any offense, or youth younger than 15 charged with an offense that is punishable by death or life imprisonment can be waived to the adult system by a judge who makes specific findings on the record about the youth's physical and mental condition, the amenability of the child to treatment, and the nature of the offense and public safety. The second mechanism is automatic exclusion from adult court, meaning, by law, the juvenile court does not have jurisdiction over the case. The prosecution has the burden of proof in a waiver hearing. A youth is automatically charged in the adult court if that youth is 14 and older and charged with a capital offense or if the youth is 16 and older and charged with one of a series of enumerated offenses. Nearly all of these youth can be "transferred" back to the juvenile system by the court following a hearing in which a criminal court judge examines factors similar to those considered in a waiver hearing; however the youth has the burden of proof in a transfer hearing.

¹ See Appendix A.

There are three categories of youth who were precluded from being considered for transfer back to the adult system: youth aged 16 and up, youth charged with first degree murder, youth who were previously transferred to the juvenile court and found delinquent, and youth who were previously convicted in the criminal court of an excluded offense.

The Task Force focused on the youth who were in the adult system due to being charged with one of the offenses automatically excluded from juvenile court jurisdiction as opposed to judicially waived youth. Members debated whether to recommend eliminating the excluded offenses and returning the decision regarding jurisdiction entirely to the juvenile court judges. No consensus was reached. The discussion frequently returned to the need for data indicating the number of youth charged as adults, the outcomes of their cases both in adult court or if returned to juvenile court, and the comparable recidivism rates in Maryland for delinquent youth and youth convicted as adults. Additionally, some members of the Task Force believed all youth should start in the juvenile system regardless of charge and the data was only needed for purposes of implementation. The majority of Task Force members agreed that the system could likely be improved in some ways, but were unable to agree as to how or even to make more concrete recommendations absent more data.

The Task force addressed the benefits of retaining youth under the jurisdiction of the juvenile court, contrasting the services, the case processing timelines, and the collateral consequences. The Task Force extensively discussed the issue of pre-trial detention of youth who are charged as adults in adult jails.

The long-term fiscal impact of treating youth in the adult criminal system revealed comparable divisions among the members. Some members suggested that the reduction in recidivism resulting from treating youth in the juvenile system would result in savings that would offset the increased burden on DJS. It was agreed that the recommended study will be designed to reveal the relative fiscal impact of handling youth in the juvenile and adult systems.

Although there was no consensus by the group, the two recommendations below represented the majority vote of the Task Force members.

Recommendation 1

The Task Force recommends that a thorough analysis of the capital, programmatic and staffing needs be completed to evaluate proposed policy changes that would expand juvenile court jurisdiction. This analysis, conducted by an independent, third party contractor, must include a comprehensive population forecast, a fiscal impact study and an estimate of the time necessary to create services and capacity in the juvenile system. The study is expected to be complete by July 31, 2014. Task Force members will be invited to attend a subsequent meeting to review and discuss the study prior to the official release. (Final vote for this recommendation was 11 yes, 3 no and 1 abstained).

Recommendation 2

The Task Force recommends the expansion of juvenile court jurisdiction by repealing Md. Code, Criminal Procedure, §4-202(c). Repealing §4-202(c) would permit youth charged, as currently prohibited by law, the ability to request transfer from the adult to the juvenile court. Specifically, a youth that (1) has previously been convicted of an excluded offense; (2) has previously been waived/transferred to juvenile court and adjudicated delinquent; or (3) is accused of first degree murder and was at least 16 at the time of commission, would be permitted to request the adult court to transfer jurisdiction to the juvenile court.

Task Force Membership

Chair

Tammy Brown, Executive Director, Governor's Office of Crime Control & Prevention

Members

Appointed by Governor

Kara Aanenson
Youth Services Provider

James H. Green, Esq.
Representative of a local law enforcement
agency

Gayle M. Jordan-Randolph, M.D.
Mental health provider specializing in
adolescent mental health

Marion W. Mattingly
National expert on youth justice issues

Carlotta A. Woodward
Maryland State's Attorney

Heather R. Amador
Representative from a victims' rights advocacy
group
Jabriera Handy
An ex-offender who was charged as an adult
for an offense committed as a juvenile

Bart K. Lubow
Representative from a juvenile justice
advocacy group

Mary Lou McDonough
Representative of a local correctional facility

Appointed by Senate President:

Jamin B. (Jamie) Raskin, Senator, District 10, Montgomery County

Appointed by House Speaker:

Jill P. Carter, Maryland House of Delegates, District 41, Baltimore City

Appointed by Chief Judge, Court of Appeals:

Brett W. Wilson, Administrative Judge, Dorchester County Circuit Court

Ex-officio

Sam Abed, Secretary, Department of Juvenile Services
Colonel Marcus Brown, Superintendent, Maryland State Police
Paul DeWolfe, Maryland Public Defender
Gary Maynard, Secretary, Department of Public Safety & Correctional Services

Message From The Chair

In approaching our charge by the Maryland General Assembly to examine the exclusionary offenses that automatically result in adult charges for juveniles, we have endeavored to balance the views of the Task Force members and craft recommendations that reflect the broadest consensus for action. In so doing, the recommendations of the Task Force showcase the need to further study the capital, programmatic, and staffing needs to evaluate proposed policy changes that would expand juvenile court jurisdiction.

While we believe that the recommendations contained in this report are an important step, we recognize that more work needs to be done to study this important issue. The Task Force will play a vital role in the recommended study and subsequent policy decisions.

We are grateful to the Maryland General Assembly for bringing a renewed focus to this important issue. It has been an honor to lead this Task Force.



Tammy M. Brown

Introduction

Chapter 639, 2013 Laws of Maryland (HB 786)² established the Task Force on Juvenile Court Jurisdiction (Task Force). The Governor's Office of Crime Control & Prevention provided staff support for the initiative and convened the Task Force comprised of representatives from various state and local government agencies, advocates, and juvenile justice professionals to examine current laws relating to juvenile court jurisdiction and best practices for handling offenses committed by youth. The Task Force met between August and November 2013.

The Task Force first met in August 2013 and began its work with an overview of the legislative purpose³ and review of its tasks.

The Task Force was directed to:

- Study current laws relating to the jurisdiction of the juvenile court;
- Review current research on best practices for handling offenses committed by youth in the court system; and
- Make recommendations regarding:
 - whether or not to eliminate the existing exclusionary offenses that automatically result in adult charges for youth and restore juvenile court discretion;
 - the benefits of retaining youth under the jurisdiction of the juvenile court;
 - the methods to reduce the number of youth in adult detention centers and prisons; and
 - the long-term fiscal impact of treating youth in the adult criminal system.

In addition to the five Task Force meetings in August, September, October, and November 2013, two workgroups met. Workgroup #1 met once in August and Workgroup #2 met once in October to consider the following topics:

- Workgroup #1: Assessment of research on juvenile and adult court jurisdiction of juveniles charged as adults.
- Workgroup #2: Technical and data-based solutions to existing gaps in information.

² See Appendix A.

³ Chapter 639, 2013 Laws of Maryland, page 12.

Study of Current Laws Relating to the Jurisdiction of the Juvenile Court and Best Practices

The Task Force first initiated its work with a review of the current laws relating to the jurisdiction of the juvenile court.

Juvenile Court Jurisdiction

In general, the juvenile court has jurisdiction over a child alleged to be delinquent, in need of supervision, or who has received a citation for alcoholic beverage violations. Md. Code, Courts and Judicial Proceeding, §3-8A-03. A child, who is alleged to be delinquent, is a person under the age of 18 at the time an alleged delinquent act was committed. Md. Code, Courts and Judicial Proceeding, §3-8A-05. A delinquent act is an act that would be a crime if committed by an adult. §3-8A-01. However, there are limitations to the juvenile courts jurisdiction and certain offenses are excluded from the jurisdiction of the juvenile court and jurisdiction is placed in the adult criminal court. Additionally, there are mechanisms in Maryland law to transfer or waive jurisdiction between the adult and juvenile courts in certain circumstances.

Waiver of Juvenile Court Jurisdiction to the Adult Court

The juvenile court may waive its exclusive jurisdiction over a child who meets specified age/offense criteria if it finds, after ordering an investigation and a hearing, that the child is not a fit subject for juvenile rehabilitative measures. Md. Code, Courts and Judicial Proceeding, §3-8A-06. The juvenile court may waive jurisdiction to the adult court of a child alleged to be delinquent who is age 15 or older, or who is younger than age 15 and is charged with committing an act which, if committed by an adult, would be punishable by death or life imprisonment. §3-8A-06.

The court may waive its jurisdiction only after it has conducted a waiver hearing held prior to the adjudicatory hearing and after notice has been given to all parties. The court may not waive its jurisdiction over a case unless it determines, from a preponderance of the evidence presented at the hearing, that the child is an unfit subject for juvenile rehabilitative measures. §3-8A-06.

At a waiver hearing the following criteria must be considered by the court:

- (1) the child's age;
- (2) the mental and physical condition of the child;
- (3) the child's amenability to any available treatment;
- (4) the nature of the offense and the child's alleged participation in it; and
- (5) public safety. §3-8A-06.

These criteria must be considered individually and in relation to each other on the record. If jurisdiction is waived, the court must order the child held for trial under the regular procedures of the court which would have jurisdiction over the offense if committed by an adult. §3-8A-06. The burden of proof at a waiver hearing is on the prosecution.

Offenses Excluded from Juvenile Court Jurisdiction

The juvenile court "does not have jurisdiction over" various age/offense categories, unless the adult criminal court transfers the case to the juvenile court.

The juvenile court does not have jurisdiction over:

- a child at least 16 years old alleged to have violated certain traffic or boating laws;
- a child at least 16 years old alleged to have committed certain violent crimes;⁴
- a child at least 14 years old alleged to have done an act which, if committed by an adult, would be a crime punishable by death or life imprisonment, and;
- a child who has previously been convicted as an adult of a felony and subsequently alleged to have committed an act that would be a felony if committed by an adult. Md. Code, Courts and Judicial Proceedings, §3-8A-03.

If a child is directly charged as an adult, then the child is held for trial under the regular procedures of the adult court, unless a transfer is granted.

Transfer from Adult Court to Juvenile Court

Although Maryland Law specifically excludes certain offenses from the juvenile court's jurisdiction, there is a mechanism to transfer jurisdiction from the adult court to the juvenile court in certain circumstances.

Generally, a court with criminal jurisdiction over a case excluded by statute from juvenile jurisdiction may transfer the child to juvenile court if such a transfer is "in the interests of the child or society." However, the court may not transfer a case of any child who:

- (1) has previously been convicted of an excluded offense;
- (2) has previously been waived/transferred to juvenile court and adjudicated delinquent; or
- (3) is accused of first degree murder and was at least 16 at the time of commission. Md. Code, Criminal Procedure, §4-202.

At a transfer hearing, the court must consider the same criteria (page 8) relating to a waiver, and may order that a study be made concerning the child, the child's family and environment, and other matters concerning the disposition of the case. Md. Code, Criminal Procedure, §4-202. The burden of proof at a transfer hearing is on the youth.

Permitted Use of Detention for Juveniles in the Juvenile and Adult System

Generally, youth under 18 who are alleged to have committed a delinquent act and are determined to require secure detention are held in juvenile detention facilities. However, youth under 18 may be held in pre-trial adult detention facilities if the youth is alleged to have committed a criminal act that is excluded from the jurisdiction of the juvenile court, or if the juvenile court waives its jurisdiction to the adult court.

⁴ Refer to Appendix B for a complete list of crimes that are excluded from juvenile court jurisdiction.

Youth charged as adults who are ordered into pre-trial detention by the adult court are held in adult detention facilities. However, Maryland law provides an opportunity for the adult court, after review of the youth's charges and circumstances, to order a youth to be held in a juvenile detention facility if the youth is eligible for a transfer of jurisdiction. Md. Code, Criminal Procedure, §4-202. Youth found to be appropriate for juvenile detention may remain there pending a transfer hearing to determine if jurisdiction should remain in the adult court or be transferred to the juvenile court.

The Court may review where a youth should be held pending a transfer hearing at several stages of the criminal proceeding. In the District Court, the court may review where a youth is held pending the transfer determination at a bail review or preliminary hearing. Md. Code, Criminal Procedure, §4-202(j). Additionally, the Circuit Court may order a youth be held in a juvenile facility pending the transfer determination. Md. Code, Criminal Procedure, §4-202(h). A motion requesting that a child be held in a juvenile facility pending a transfer determination is to be held no later than the next court day, unless extended by the court for good cause shown. §4-202(h)(2).

Review of Current Best Practices

The Task Force established a workgroup to review current research on best practices for handling offenses committed by youth in the court system. The workgroup met and presented their findings to the Task Force.

The Task Force members were presented with an overview of the previous Task Force on Juvenile Court Jurisdiction that met as a result of legislation passed during the 2000 session of the Maryland General Assembly. In that report⁵ it was highlighted that data collection on the youth charged as adult population was a challenge and that the transfer process (the court's determination of moving a case from adult to juvenile court) should be accelerated. It was also noted that steps need to be taken to analyze and address the severe disproportionate impact of these laws on African-American youth.

The Task Force was also provided with an overview of a wide range of research that exists on the issue of charging youth as adults. Most of the research presented from other jurisdictions concluded that charging youth as an adult does not reduce recidivism; that most cases involving a juvenile should start in the juvenile court; and youth should not be detained in adult jails.⁶

⁵ Commission on Juvenile Justice Jurisdiction (2001). Final Report to the Governor and General Assembly.

⁶ Refer to Appendix C for a Review of the Literature

Requested Recommendations

The legislation creating the Task Force directed that the Task Force make recommendations regarding⁷:

- whether or not to eliminate the existing exclusionary offenses that automatically result in adult charges for youth and restore juvenile court discretion;
- the benefits of retaining youth under the jurisdiction of the juvenile court;
- the methods to reduce the number of youth in adult detention centers and prisons; and
- the long-term fiscal impact of treating youth in the adult criminal system.

The Task Force had several discussions⁸ regarding the topics identified above and the Task Force members were asked to submit written comments on the above language⁹.

Whether or not to eliminate the existing exclusionary offenses that automatically result in adult charges for youth and restore juvenile court discretion

The Task Force reviewed the current list of existing exclusionary offenses¹⁰ that automatically result in adult charges for youth, and discussed restoring juvenile court discretion for this population. A common theme in Task Force discussions was the lack of data available that would permit the Task Force to fully evaluate the topics for which the legislature requested recommendations. Specifically, it was noted by some Task Force members that without knowing how many youth are charged with the existing exclusionary offenses, it would be impossible to make policy recommendations to restore juvenile court discretion. However, there were Task Force members that advocated that a policy statement to eliminate some or all of the exclusionary offenses be crafted and forwarded to the legislature. Other Task Force members advocated that the current system should remain. Most acknowledged that the system could be improved, but were unable to specify details absent more data.

In light of the lack of consensus, the Task Force did vote to recommend that further data analysis and evaluation needs to be completed, and to make statutory changes that would permit additional youth charged as adults to request that the court transfer their case to the juvenile court.

The benefits of retaining youth under the jurisdiction of the juvenile court

The Task Force had substantive discussions regarding the benefit of retaining youth under the jurisdiction of the juvenile court. Throughout the discussions, the Department of Juvenile Services and the Department of Public Safety and Correctional Services provided information about what is provided to youth in the respective agencies. The Task Force discussed collateral consequences of involvement in the adult system, case processing differences, level of service provided to youth in each system, and the impact on recidivism. The Task Force discussed the

⁷ See Appendix A – Chapter 639, 2013 Laws of Maryland

⁸ See Appendix D – Meeting Minutes

⁹ See Appendix E – Comments regarding Requested Recommendations

¹⁰ See Appendix B – List of Exclusionary Offenses

Prison Rape Elimination Act and the new regulations that require youth to be separated from adult inmates and to reduce the use of solitary confinement.

In light of the varied information, the Task Force did not vote to make any specific recommendations about the benefits of retaining youth under the jurisdiction of the juvenile court.

Methods to reduce the number of youth in adult detention centers and prisons

The Task Force reviewed the current law that directs where youth, who are determined to require secure detention, are held. It was discussed that all youth should be held in juvenile detention facilities pending any adult court action, rather than adult detention facilities. The Task Force discussed expanding efforts to utilize juvenile detention facilities for youth charged as adults under the current law. However, the lack of data was apparent and the Task Force was unable to make any specific recommendations on methods to reduce the number of youth in adult detention centers and prisons. Obtaining data to more thoroughly evaluate this topic is included in the final Task Force recommendations.

The long-term fiscal impact of treating youth in the adult criminal system

The Task Force discussed, in very general terms, the long-term fiscal impact of treating youth in the adult criminal system. It was represented by some Task Force members that removing juveniles from the adult criminal justice system should reduce long-term costs through a reduction in recidivism. Further, the impact of complying with the Prison Rape Elimination Act regulations was discussed. The data collection and research that the Task Force has recommended will assist in further defining the long-term fiscal impact of treating youth in the adult criminal system.

Final Task Force Recommendations

Although there was no consensus by the group, the two recommendations below represented the majority vote of the Task Force members.

Recommendation 1

The Task Force recommends that a thorough analysis of the capital, programmatic and staffing needs be completed to evaluate proposed policy changes that would expand juvenile court jurisdiction. This analysis, conducted by an independent, third party contractor, must include a comprehensive population forecast, a fiscal impact study and an estimate of the time necessary to create services and capacity in the juvenile system. The study is expected to be complete by July 31, 2014. Task Force members will be invited to attend a subsequent meeting to review and discuss the study prior to the official release. (Final vote for this recommendation was 11 yes, 3 no and 1 abstained).

Recommendation 2

The Task Force recommends the expansion of juvenile court jurisdiction by repealing Md. Code, Criminal Procedure, §4-202(c). Repealing §4-202(c) would permit youth charged, as currently prohibited by law, the ability to request transfer from the adult to the juvenile court. Specifically, a youth that (1) has previously been convicted of an excluded offense; (2) has previously been waived/transferred to juvenile court and adjudicated delinquent; or (3) is accused of first degree murder and was at least 16 at the time of commission, would be permitted to request the adult court to transfer jurisdiction to the juvenile court.

Conclusion

The Task Force believes that the recommendations cited above are targeted to address the issues that were raised in HB 786 (Chapter 639). The meeting minutes are included in Appendix D to provide the full content of the Task Force's discussions. The analysis that is recommended will provide a more comprehensive picture of the needs that warrant additional attention.

APPENDICES

Appendix A- Chapter 639 (2013) Laws of Maryland

MARTIN O'MALLEY, Governor

Ch. 639

Chapter 639

(House Bill 786)

AN ACT concerning

Juvenile Law – ~~Jurisdiction and Detention~~ Task Force on Juvenile Court Jurisdiction

FOR the purpose of establishing ~~that the juvenile court has jurisdiction over a certain child alleged to have committed certain acts which, if committed by an adult, would be certain crimes, or over a certain child who has previously been convicted of a felony under certain circumstances; prohibiting a child from waiving the right to counsel at a certain waiver hearing; requiring a certain person to be transferred to a juvenile facility unless a certain finding has been made; prohibiting a child from being transported together with certain adults unless a certain finding has been made; repealing certain provisions of law governing the transfer of certain criminal cases to juvenile court; making stylistic and conforming changes; altering certain requirements relating to events that must be reported to the Criminal Justice Information System Central Repository; altering certain requirements relating to the fingerprinting of a child adjudicated delinquent; providing for the application of this Act; and generally relating to juvenile law~~ the Task Force on Juvenile Court Jurisdiction; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; establishing the duties of the Task Force; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force on Juvenile Court Jurisdiction.

~~BY~~ ~~repealing and reenacting, with amendments,~~
~~Article – Courts and Judicial Proceedings~~
~~Section 3 SA 03(d), 3 SA 16, and 3 SA 20(b)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2012 Supplement)~~

~~BY~~ ~~repealing~~
~~Article – Criminal Procedure~~
~~Section 4 202 and 4 202.2~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2012 Supplement)~~

~~BY~~ ~~repealing and reenacting, with amendments,~~
~~Article – Criminal Procedure~~

~~Section 4-202.1, 10-215(a)(20), and 10-216(d)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~the Laws of Maryland read as follows:~~

~~Article Courts and Judicial Proceedings~~

~~3-SA-03.~~

~~(d) The court does not have jurisdiction over:~~

~~(1) [A child at least 14 years old alleged to have done an act which, if committed by an adult, would be a crime punishable by death or life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article;~~

~~(2) A child at least 16 years old alleged to have done an act in violation of any provision of the Transportation Article or other traffic law or ordinance, except an act that prescribes a penalty of incarceration;~~

~~[(3)](2) A child at least 16 years old alleged to have done an act in violation of any provision of law, rule, or regulation governing the use or operation of a boat, except an act that prescribes a penalty of incarceration; OR~~

~~[(4) A child at least 16 years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article:~~

~~(i) Abduction;~~

~~(ii) Kidnapping;~~

~~(iii) Second degree murder;~~

~~(iv) Manslaughter, except involuntary manslaughter;~~

~~(v) Second degree rape;~~

~~(vi) Robbery under § 3-403 of the Criminal Law Article;~~

~~(vii) Second degree sexual offense under § 3-306(a)(1) of the Criminal Law Article;~~

~~(viii) Third degree sexual offense under § 3-307(a)(1) of the Criminal Law Article;~~

~~(ix) A crime in violation of § 5-133, § 5-134, § 5-138, or § 5-203 of the Public Safety Article;~~

~~(x) Using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime under § 5-621 of the Criminal Law Article;~~

~~(xi) Use of a firearm under § 5-622 of the Criminal Law Article;~~

~~(xii) Carjacking or armed carjacking under § 3-405 of the Criminal Law Article;~~

~~(xiii) Assault in the first degree under § 3-202 of the Criminal Law Article;~~

~~(xiv) Attempted murder in the second degree under § 2-206 of the Criminal Law Article;~~

~~(xv) Attempted rape in the second degree under § 3-310 of the Criminal Law Article or attempted sexual offense in the second degree under § 3-312 of the Criminal Law Article;~~

~~(xvi) Attempted robbery under § 3-403 of the Criminal Law Article; or~~

~~(xvii) A violation of § 4-203, § 4-204, § 4-404, or § 4-405 of the Criminal Law Article;~~

~~(5) A child who previously has been convicted as an adult of a felony and is subsequently alleged to have committed an act that would be a felony if committed by an adult, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article; or]~~

~~[(6)] (3) A peace order proceeding in which the victim, as defined in § 3-SA-01(cc)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4-501 of the Family Law Article.~~

~~3-SA-16.~~

~~(a) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court or the intake officer immediately when a person, who is or appears to be under the age of 18 years, is received at the facility and shall deliver [him] THE PERSON to the court upon request~~

~~or transfer [him] THE PERSON to the JUVENILE facility designated by the intake officer or the court, unless [the];~~

~~(1) THE court has waived its jurisdiction with respect to the person [and he];~~

~~(2) THE PERSON is being proceeded against as an adult; AND~~

~~(3) A FINDING HAS BEEN MADE, AFTER A HEARING AND BASED ON EVIDENCE OTHER THAN SOLELY THE ALLEGATIONS IN THE CHARGING DOCUMENT, THAT THE PERSON;~~

~~(i) CANNOT BE HELD IN A JUVENILE FACILITY; AND~~

~~(ii) IS A THREAT TO THE SAFETY OR SECURITY OF THE STAFF OR OTHER JUVENILES IN THE JUVENILE FACILITY.~~

~~(b) When a case is transferred to another court for criminal prosecution, the child shall promptly be transferred to the appropriate officer, JUVENILE FACILITY, or adult detention facility in accordance with the law governing the detention of persons charged with crime.~~

~~(c) A child may not be transported together with adults who have been charged with or convicted of a crime unless [the];~~

~~(1) THE court has waived its jurisdiction [and the];~~

~~(2) THE child is being proceeded against as an adult; AND~~

~~(3) A FINDING HAS BEEN MADE, AFTER A HEARING AND BASED ON EVIDENCE OTHER THAN SOLELY THE ALLEGATIONS IN THE CHARGING DOCUMENT, THAT THE PERSON;~~

~~(i) CANNOT BE HELD IN A JUVENILE FACILITY; AND~~

~~(ii) IS A THREAT TO THE SAFETY OR SECURITY OF THE STAFF OR OTHER JUVENILES IN THE JUVENILE FACILITY.~~

~~3 SA 20.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection, a child may not waive the right to the assistance of counsel in a proceeding under this subtitle.~~

~~(2) A parent, guardian, or custodian of a child may not waive the child's right to the assistance of counsel.~~

~~(3) After a petition or citation has been filed with the court under this subtitle, if a child indicates a desire to waive the right to the assistance of counsel, the court may not accept the waiver unless:~~

~~(i) The child is in the presence of counsel and has consulted with counsel; and~~

~~(ii) The court determines that the waiver is knowing and voluntary;~~

~~(4) In determining whether the waiver is knowing and voluntary, the court shall consider, after appropriate questioning in open court and on the record, whether the child fully comprehends:~~

~~(i) The nature of the allegations and the proceedings, and the range of allowable dispositions;~~

~~(ii) That counsel may be of assistance in determining and presenting any defenses to the allegations of the petition, or other mitigating circumstances;~~

~~(iii) That the right to the assistance of counsel in a delinquency case, or a child in need of supervision case, includes the right to the prompt assignment of an attorney, without charge to the child if the child is financially unable to obtain private counsel;~~

~~(iv) That even if the child intends not to contest the charge or proceeding, counsel may be of substantial assistance in developing and presenting material that could affect the disposition; and~~

~~(v) That among the child's rights at any hearing are the right to call witnesses on the child's behalf, the right to confront and cross-examine witnesses, the right to obtain witnesses by compulsory process, and the right to require proof of any charges.~~

~~(5) NOTWITHSTANDING PARAGRAPH (3) OF THIS SUBSECTION, A CHILD MAY NOT WAIVE THE RIGHT TO THE ASSISTANCE OF COUNSEL IN A WAIVER HEARING HELD UNDER § 2 SA 06 OF THIS SUBTITLE.~~

~~Article Criminal Procedure~~

~~[4-202]~~

- ~~(a) (1) In this section the following words have the meanings indicated.~~
- ~~(2) "Victim" has the meaning stated in § 11-104 of this article.~~
- ~~(3) "Victim's representative" has the meaning stated in § 11-104 of this article.~~
- ~~(b) Except as provided in subsection (c) of this section, a court exercising criminal jurisdiction in a case involving a child may transfer the case to the juvenile court before trial or before a plea is entered under Maryland Rule 4-242 if:~~
- ~~(1) the accused child was at least 14 but not 18 years of age when the alleged crime was committed;~~
- ~~(2) the alleged crime is excluded from the jurisdiction of the juvenile court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and~~
- ~~(3) the court determines by a preponderance of the evidence that a transfer of its jurisdiction is in the interest of the child or society.~~
- ~~(c) The court may not transfer a case to the juvenile court under subsection (b) of this section if:~~
- ~~(1) the child previously has been transferred to juvenile court and adjudicated delinquent;~~
- ~~(2) the child was convicted in an unrelated case excluded from the jurisdiction of the juvenile court under § 3-8A-03(d)(1) or (4) of the Courts Article; or~~
- ~~(3) the alleged crime is murder in the first degree and the accused child was 16 or 17 years of age when the alleged crime was committed.~~
- ~~(d) In determining whether to transfer jurisdiction under subsection (b) of this section, the court shall consider:~~
- ~~(1) the age of the child;~~
- ~~(2) the mental and physical condition of the child;~~
- ~~(3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children;~~
- ~~(4) the nature of the alleged crime; and~~
- ~~(5) the public safety.~~

~~(e) In making a determination under this section, the court may order that a study be made concerning the child, the family of the child, the environment of the child, and other matters concerning the disposition of the case.~~

~~(f) The court shall make a transfer determination within 10 days after the date of a transfer hearing.~~

~~(g) If the court transfers its jurisdiction under this section, the court may order the child held for an adjudicatory hearing under the regular procedure of the juvenile court.~~

~~(h) (1) Pending a determination under this section to transfer its jurisdiction, the court may order a child to be held in a secure juvenile facility.~~

~~(2) A hearing on a motion requesting that a child be held in a juvenile facility pending a transfer determination shall be held not later than the next court day, unless extended by the court for good cause shown.~~

~~(i) (1) A victim or victim's representative shall be given notice of the transfer hearing as provided under § 11-104 of this article.~~

~~(2) (i) A victim or a victim's representative may submit a victim impact statement to the court as provided in § 11-102 of this article.~~

~~(ii) This paragraph does not preclude a victim or victim's representative who has not filed a notification request form under § 11-104 of this article from submitting a victim impact statement to the court.~~

~~(iii) The court shall consider a victim impact statement in determining whether to transfer jurisdiction under this section.~~

~~(j) At a bail review or preliminary hearing before the District Court involving a child whose case is eligible for transfer under subsection (b) of this section, the District Court may order that a study be made under the provisions of subsection (c) of this section, or that the child be held in a secure juvenile facility under the provisions of subsection (b) of this section, regardless of whether the District Court has criminal jurisdiction over the case.~~

~~[4-202.1] 4-202.~~

~~(a) In this section, "child" means a defendant who is under the age of 18 years [and whose case is eligible for transfer under the provisions of § 4-202(b)(1) and (2) and (c) of this subtitle].~~

~~(b) If a child remains in custody for any reason after a bail review hearing:~~

~~(1) in the case of a child charged with a felony that is not within the jurisdiction of the District Court, the District Court shall:~~

~~(i) clearly indicate on the case file and in computer records that the case involves a detained child; and~~

~~(ii) set a preliminary hearing to be held within 15 days after the bail review hearing; or~~

~~(2) in the case of a child charged with a crime in the District Court, the District Court:~~

~~(i) shall clearly indicate on the case file and in computer records that the case involves a detained child; AND~~

~~[(ii) shall set a transfer hearing under § 4-202 of this subtitle to be held within 30 days after the filing of the charging document;~~

~~(iii) may order that a study be made under § 4-202 of this subtitle; and]~~

~~[(iv)] (H) shall require that prompt notice be given to counsel for the child, or, if the child is not represented by counsel, to the Office of the Public Defender.~~

~~(e) On receipt of a District Court case file that indicates that the case involves a child who was detained after a bail review hearing under subsection (b) of this section, a circuit court]:~~

~~(1) unless previously set by the District Court under subsection (b)(2) of this section, shall set a transfer hearing under § 4-202 of this subtitle to be held within 30 days after the filing of the charging document in the circuit court;~~

~~(2) unless previously ordered by the District Court under subsection (b)(2) of this section, may order that a study be made under § 4-202 of this subtitle; and~~

~~(3)] shall require that prompt notice be given to counsel for the child, or, if the child is not represented by counsel, to the Office of the Public Defender.~~

~~[4-202.2.~~

~~(a) At sentencing, a court exercising criminal jurisdiction in a case involving a child shall determine whether to transfer jurisdiction to the juvenile court if:~~

~~(1) as a result of trial or a plea entered under Maryland Rule 4-242, all charges that excluded jurisdiction from the juvenile court under § 3-8A-03(d)(1) or (4) of the Courts Article do not result in a finding of guilty; and~~

~~(2) (i) pretrial transfer was prohibited under § 4-202(e)(3) of this subtitle; or~~

~~(ii) the court did not transfer jurisdiction after a hearing under § 4-202(b) of this subtitle.~~

~~(b) In determining whether to transfer jurisdiction under subsection (a) of this section, the court shall consider:~~

~~(1) the age of the child;~~

~~(2) the mental and physical condition of the child;~~

~~(3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children;~~

~~(4) the nature of the child's acts as proven in the trial or admitted to in a plea entered under Maryland Rule 4-242; and~~

~~(5) public safety.~~

~~(c) The court may not consider transferring jurisdiction to the juvenile court under this section if:~~

~~(1) under the terms of a plea agreement entered under Maryland Rule 4-243, the child agrees that jurisdiction is not to be transferred; or~~

~~(2) pretrial transfer was prohibited under § 4-202(e)(1) or (2) of this subtitle.~~

~~(d) (1) A victim or victim's representative shall be given notice of the transfer hearing as provided under § 11-104 of this article.~~

~~(2) (i) A victim or victim's representative may submit a victim impact statement to the court as provided in § 11-402 of this article.~~

~~(ii) This paragraph does not preclude a victim or victim's representative who has not filed a notification request form under § 11-104 of this article from submitting a victim impact statement to the court.~~

~~(iii) The court shall consider a victim impact statement in determining whether to transfer jurisdiction under this section.~~

~~(e) (1) If the court transfers its jurisdiction to the juvenile court, the court shall conduct a disposition under the regular procedures of the juvenile court.~~

~~(2) The record of the hearing and of the disposition shall be transferred to the juvenile court, subject to § 3 SA 27 of the Courts Article.]~~

~~10 215.~~

~~(e) The following events are reportable events under this subtitle that must be reported to the Central Repository in accordance with § 10 214 of this subtitle:~~

~~(20) an adjudication of a child as delinquent[;~~

~~(i) if the child is at least [14] 16 years old, for an act [described in § 3 SA 03(d)(1) of the Courts Article; or~~

~~(ii) if the child is at least 16 years old, for an act described in § 3 SA 03(d)(4) or (5) of the Courts Article;] THAT, IF COMMITTED BY AN ADULT, WOULD BE A CRIME PUNISHABLE BY DEATH, LIFE IMPRISONMENT, OR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE;~~

~~10 216.~~

~~(d) (1) This subsection only applies to an adjudication of delinquency of a child[;~~

~~(i) for an act described in § 3 SA 03(d)(1) of the Courts Article if the child is at least 14 years old; or~~

~~(ii) for an act [described in § 3 SA 03(d)(4) or (5) of the Courts Article] THAT, IF COMMITTED BY AN ADULT, WOULD BE A CRIME PUNISHABLE BY DEATH, LIFE IMPRISONMENT, OR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE if the child is at least 16 years old.~~

~~(2) If a child has not been previously fingerprinted as a result of arrest for the delinquent act, the court that held the disposition hearing of the child adjudicated delinquent shall order the child to be fingerprinted by the appropriate and available law enforcement unit.~~

~~(3) If the child cannot be fingerprinted at the time of the disposition hearing held under paragraph (2) of this subsection, the court shall order the child to report to a designated law enforcement unit to be fingerprinted within 3 days after making a disposition on an adjudication of delinquency.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies only to an action filed on or after the effective date of this Act.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.~~

- (a) There is a Task Force on Juvenile Court Jurisdiction.
- (b) The Task Force consists of the following members:
 - (1) one member of the Senate of Maryland, appointed by the President of the Senate;
 - (2) one member of the House of Delegates, appointed by the Speaker of the House;
 - (3) the Secretary of Juvenile Services, or the Secretary's designee;
 - (4) the Secretary of Public Safety and Correctional Services, or the Secretary's designee;
 - (5) the Secretary of State Police, or the Secretary's designee;
 - (6) the Maryland Public Defender, or the Public Defender's designee;
 - (7) a juvenile court judge, appointed by the Chief Judge of the Court of Appeals; and
 - (8) the following members, appointed by the Governor:
 - (i) one representative from the Governor's Office of Crime Control and Prevention;
 - (ii) a Maryland State's Attorney;
 - (iii) a representative of a local correctional facility;
 - (iv) a representative of a local law enforcement agency;
 - (v) a representative from a juvenile justice advocacy group;
 - (vi) a representative from a victims' rights advocacy group;
 - (vii) an ex-offender who was charged as an adult for an offense committed as a juvenile;

(viii) a youth services provider;
 (ix) a mental health provider specializing in adolescent mental health; and
 (x) a national expert on youth justice issues, or the expert's designee.

(c) The Governor shall designate the chair of the Task Force.

(d) The Governor's Office of Crime Control and Prevention shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but
 (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) study current laws relating to the jurisdiction of the juvenile court;
 (2) review current research on best practices for handling offenses committed by youth in the court system; and

(3) make recommendations regarding:

(i) whether or not to eliminate the existing exclusionary offenses that automatically result in adult charges for youth and restore juvenile court discretion;

(ii) the benefits of retaining youth under the jurisdiction of the juvenile court;

(iii) methods to reduce the number of youth in adult detention centers and prisons; and

(iv) the long-term fiscal impact of treating youth in the adult criminal system.

(g) On or before December 1, 2013, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013. It shall remain effective for a period of 1 year and, at the end of May 31, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 16, 2013.

Appendix B- §3-8A-03: List of Crimes Excluded from Juvenile Court Jurisdiction

(a) In addition to the jurisdiction specified in Subtitle 8 of this title, the court has exclusive original jurisdiction over:

- (1) A child who is alleged to be delinquent or in need of supervision or who has received a citation for a violation;
- (2) Except as provided in subsection (d)(6) of this section, a peace order proceeding in which the respondent is a child; and
- (3) Proceedings arising under the Interstate Compact on Juveniles.

(b) The court has concurrent jurisdiction over proceedings against an adult for the violation of § 3-8A-30 of this subtitle. However, the court may waive its jurisdiction under this subsection upon its own motion or upon the motion of any party to the proceeding, if charges against the adult arising from the same incident are pending in the criminal court. Upon motion by either the State's Attorney or the adult charged under § 3-8A-30 of this subtitle, the court shall waive its jurisdiction, and the adult shall be tried in the criminal court according to the usual criminal procedure.

(c) The jurisdiction of the court is concurrent with that of the District Court in any criminal case arising under the compulsory public school attendance laws of this State.

(d) The court does not have jurisdiction over:

(1) A child at least 14 years old alleged to have done an act which, if committed by an adult, would be a crime punishable by death or life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article;

(2) A child at least 16 years old alleged to have done an act in violation of any provision of the Transportation Article or other traffic law or ordinance, except an act that prescribes a penalty of incarceration;

(3) A child at least 16 years old alleged to have done an act in violation of any provision of law, rule, or regulation governing the use or operation of a boat, except an act that prescribes a penalty of incarceration;

(4) A child at least 16 years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article:

- (i) Abduction;
- (ii) Kidnapping;
- (iii) Second degree murder;
- (iv) Manslaughter, except involuntary manslaughter;
- (v) Second degree rape;
- (vi) Robbery under § 3-403 of the Criminal Law Article;
- (vii) Second degree sexual offense under § 3-306(a)(1) of the Criminal Law Article;

- (viii) Third degree sexual offense under § 3-307(a)(1) of the Criminal Law Article;
 - (ix) A crime in violation of § 5-133, § 5-134, § 5-138, or § 5-203 of the Public Safety Article;
 - (x) Using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime under § 5-621 of the Criminal Law Article;
 - (xi) Use of a firearm under § 5-622 of the Criminal Law Article;
 - (xii) Carjacking or armed carjacking under § 3-405 of the Criminal Law Article;
 - (xiii) Assault in the first degree under § 3-202 of the Criminal Law Article;
 - (xiv) Attempted murder in the second degree under § 2-206 of the Criminal Law Article;
 - (xv) Attempted rape in the second degree under § 3-310 of the Criminal Law Article or attempted sexual offense in the second degree under § 3-312 of the Criminal Law Article;
 - (xvi) Attempted robbery under § 3-403 of the Criminal Law Article; or
 - (xvii) A violation of § 4-203, § 4-204, § 4-404, or § 4-405 of the Criminal Law Article;
- (5) A child who previously has been convicted as an adult of a felony and is subsequently alleged to have committed an act that would be a felony if committed by an adult, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article; or
- (6) A peace order proceeding in which the victim, as defined in § 3-8A-01(cc)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4-501 of the Family Law Article.
- (e) If the child is charged with two or more violations of the Maryland Vehicle Law, another traffic law or ordinance, or the State Boat Act, allegedly arising out of the same incident and which would result in the child being brought before both the court and a court exercising criminal jurisdiction, the court has exclusive jurisdiction over all of the charges.

Appendix C- Literature Review and List of Considered Research

Research from the last several decades examine the effects of juvenile transfer laws that send more youth to the adult system. Several themes emerge across the research: (1) sending youth into the adult system has no deterrent effect on youth crime; (2) youth are developmentally different from adults; (3) automatic prosecution laws have an extremely disparate impact on minority youth; and, (4) there is a need for consistent, standardized data.

- **Sending youth into the adult system is generally not the best option for addressing youthful offenders or even youth violence. Generally, research has indicated that sending youth into the adult system has no deterrent effect on youth crime and generally leads to worse outcomes for youth and higher recidivism rates.**

Griffin, *et al.*, *supra* at 21; UCLA School of Law, *supra* at 30-33; Youth Law Center, *Impact of Transferring Juvenile into Adult Criminal Court: A Review of the Literature on Transfer* 31-33; Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency*, *Juvenile Justice Bulletin*, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice at 5 (Aug. 2008), Robert Hahn et al., *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System – A Report on Recommendations of the Task Force on Community Preventive Services*, *Morbidity and Mortality Weekly Report*, Recommendations and Reports, Centers for Disease Control and Prevention (Nov. 30, 2007); Campaign for Youth Justice, *The Consequences Aren't Minor: The Impact of Trying Youth as Adults and Strategies for Reform* 14(2007); Dewey G Cornell, *School Violence* 13 (Lawrence Erlbaum Associates) (2006); Campaign for Youth Justice, *Jailing Juveniles, The Dangers of Incarcerating Youth in Adult Jails in America* 4(2007).

- **Youth are developmentally different from adults and do not completely form their judgment and decision-making functions of their brains until their early 20's or late adolescence. Thus, adolescent decision-making tends to be characterized by short-sightedness, lower impulse control, and greater vulnerability to peer pressure.**

MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, *Less Guilty by Reason of Adolescence* (citing P. Allard & M. Young, *Prosecuting Juveniles in Adult Court: Perspectives for Policymakers and Practitioners*, *Journal of Forensic Psychology Practice*, 6, 65-78 (2002); M. Gardner & L. Steinberg, *Peer Influence on Risk-Taking, Risk Preference, and Risky Decision-Making in Adolescence and Adulthood: An Experimental Study*, *Development Psychology*, 41, 625-635 (2005); E. Nelson et al., *The Social Re-orientation of Adolescence: A Neuroscience Perspective on the Process and its Relation to Psychopathology*, *Psychological Medicine*, 35, 163-174 (2005)), available at http://www.adjj.org/downloads/6093issue_brief_3.pdf; Kristin Henning, *Criminalizing Normal Adolescent Behavior in Communities of Color: The Role of Prosecutors in Juvenile Justice Reform*, 98 CORNELL L. REV. 387, 397-401 (2013); Brief for the American Psychological Association et al. as Amici Curiae Supporting Petitioners at 6–30, *Miller v. Alabama*, 567 U. S. (2012) (2012) (Nos.

10-9646, 10-9647); Brief of the American Medical Association and the American Academy of Child and Adolescent Psychiatry as Amici Curiae submitted to the United States Supreme Court in *Graham v. Florida*, 130 S. Ct. 2011 (2010); Christine S. Scott-Hayward, *Explaining Juvenile False Confessions: Adolescent Development and Police Interrogation*, 31 Law & Psychology Review 53 (Spring 2007); Justice Policy Institute, *The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense* (May 2009), (citing Robert A. Sampson and John H. Laub, *Crime in the Making: Pathways and Turning Points through Life* (1993)); John W. Parry, *Transfers to Adult Court and Other Related Criminal Incompetency Matters Involving Juveniles*, 33 Mental & Physical Disability Law Reporter (Mar./Apr. 2009); Elizabeth S. Scott & Laurence Steinberg, *Blaming Youth 16-27*, Research Paper No. 02-14, University of Virginia School of Law Public Law and Legal Theory Research Paper Series (Dec 2002), available at http://ssrn.com/abstract_id=332080, also published at 81 Tex. L. Rev. 799 (2003); Elizabeth Cauffman et al., *Age Differences in Affective Decision Making as Indexed by Performance on the Iowa Gambling Task*, 46 Developmental Psychol. 193, 206 (2010); Bonnie L. Halpern-Felsher & Elizabeth Cauffman, *Costs and Benefits of a Decision: Decision-Making Competence in Adolescents and Adults*, 22 Applied Developmental Psychol. 257 (2001); Laurence Steinberg et al., *Age Differences in Future Orientation and Delay Discounting*, 80 Child Dev. 28, 38–39 (2009); Elizabeth Cauffman & Laurence Steinberg, *(Im)maturity of Judgment in Adolescence: Why Adolescents May Be Less Culpable than Adults*, 18 Behav. Sci. & L. 741, 748–49, 754 tbl.4 (2000); Laurence Steinberg et al., *Age Differences in Sensation Seeking and Impulsivity as Indexed by Behavior and Self-Report: Evidence for a Dual Systems Model*, 44 Developmental Psychol. 1764, 1774–76 (2008); Adriana Galvan et al., *Risk-Taking and the Adolescent Brain: Who Is at Risk?*, 10 Developmental Sci. F8, F9–F13 (2007).

- **Automatic prosecution policies tend to have an extremely disparate impact on minority youth. African-American and Hispanic youth are particularly more likely to be waived to the adult system or charged with an exclusionary offense, are more likely to receive harsher sentences/dispositions, and are more likely to be incarcerated.**

Campaign for Youth Justice, *Youth In the Adult Criminal Justice System* 6 (2012); UCLA School of Law, Juvenile Justice Project, *The Impact of Prosecuting Youth in the Adult Criminal Justice System: A Review of Literature* 1 (2010); Neelum Arya, Francisco Villarruel, Cassandra Villanueva and Ian Augarten *America's Invisible Children: Latino Youth and the Failure of Justice*. (2009) Neelum Arya, and Ian Augarten, Campaign for Youth Justice, *Critical Condition: African-American Youth in the Justice System*. (2008); Neelum Arya and Addie C. Rolnick. Campaign for Youth Justice, *A Tangled Web of Justice: American Indian and Alaska Native Youth in Federal, State, and Tribal Justice Systems* (2008); Nat'l Council on Crime & Delinq., *And Justice For Some: Differential Treatment of Minority Youth in the Justice System* (2007); Commission on Juvenile Justice Jurisdiction, *Final Report to the Governor and General Assembly* (September 2001); Christopher Hartney & Linh Vuong, Nat'l Council on Crime & Delinq., *Created Equal: Racial and Ethnic Disparities in the US Criminal Justice System* (2009), available at http://www.nccdglobal.org/sites/default/files/publication_pdf/created-equal.pdf; Kristin Henning, *Criminalizing Normal Adolescent Behavior in Communities of Color: The Role of Prosecutors in Juvenile Justice Reform*, 98 CORNELL L. REV. 387, 419-426 (discussing scholarship

regarding implicit biases); Aneeta Rattan et al., *Race and the Fragility of the Legal Distinction Between Juveniles and Adults*, 7 Plos One 1-5, (2012) (study finding that race had effect on support for severe sentences for youth and perceptions of youths' culpability); Jerry Kang & Kristin Lane, *Seeing Through Colorblindness: Implicit Bias and the Law*, 58 UCLA L. Rev. 465, 476 (2010); Sandra Graham & Brian S. Lowery, *Priming Unconscious Racial Stereotypes About Adolescent Offenders*, 28 Law & Hum. Behav. 483, 494, 499 (2004); Eileen Poe-Yamagata and Michael Jones, Nat'l Council on Crime & Delinq., *And Justice for Some* (1999), updated at Christopher Hartney and Fabiana Silva, Nat'l Council on Crime & Delinq., *And Justice for Some: Differential Treatment of Youth of Color in the Justice System* (2007), available at http://www.nccdglobal.org/sites/default/files/publication_pdf/justice-for-some.pdf.

- **There is a need for consistent, standardized data to assess scope and impact of issues and determine how to best allocate resources.**

Patrick Griffin, Sean Addie, Benjamin Adams & Kathy Firestine, OJJDP, *Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting* (2011); Jason Zeidenberg, National Institute of Corrections, *You're An Adult Now: Youth in Adult Criminal Justice Systems* 3 (2011); Liz Ryan, Campaign for Youth Justice, *Youth In the Adult Criminal Justice System* 6 (2012); UCLA School of Law, Juvenile Justice Project, *The Impact of Prosecuting Youth in the Adult Criminal Justice System: A Review of Literature* 1 (2010); Commission on Juvenile Justice Jurisdiction, Final Report to the Governor and General Assembly (September 2001).

-List of Considered Research-

Adams, Erica, M.D. (2010). *Healing Invisible Wounds: Why Investing in Trauma-Informed Care for Children Makes Sense*. Justice Policy Institute. http://www.justicepolicy.org/images/upload/10-07_REP_HealingInvisibleWounds_JJ-PS.pdf.

Arya, Neelum. (2007). *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America*. A Campaign for Youth Justice Report.

Butts, Jeffrey. (2012). *Transfer of Juveniles to Criminal Court is Not Correlated with Falling Youth Violence*. Research and Evaluation Center, Research Consortium of John Jay College. www.johnjayresearch.org.

Griffen, Patrick, Addie, Sean, Adams, Benjamin, Firestine, Kathy. (2011). *Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting*. National Report Series Bulletin. Office of Juvenile Justice and Delinquency Prevention. www.ojjdp.gov.

McGowan, Angela, JD, MPH, Hahn, Robert, PhD, MPH, Liberman, Akiva, PhD, Crosby, Alex, MD, MPH, Fullilove, Mindy, MD, Johnson, Robert, MD, Moscicki, Eve, ScD, MPH, Price, LeShawndra, PhD, Snyder, Susan, PhD, Tuma, Farris, ScD, Lowy, Jessica, MPH, Briss, Peter, MD, MPH, Cory, Stella, MD, MPH, Stone, Glenda, PhD. (2007). *Effects on Violence of Laws and Policies*

Facilitating the Transfer of Juveniles from the Juvenile Justice System to the Adult Justice System: A Systematic Review. American Journal of Preventive Medicine (Am J Prev Med 2007;32(4S):S7–S28).

Snapshot of National Organizations' Policy Statements on Youth in the Adult Criminal Justice System. Campaign for Youth Justice. www.campaignforyouthjustice.org.

The Impact of Prosecuting Youth in the Adult Criminal Justice System: A review of the Literature. (2010). University of California, Los Angeles, School of Law.
<http://www.campaignforyouthjustice.org/documents/UCLA-Literature-Review.pdf>.

Ziedenberg, Jason. (2011). *You're An Adult Now: Youth in the Adult Criminal Justice Systems.* U.S. Department of Justice, National Institute of Corrections.

Appendix D- Task Force Meeting Minutes

Meeting Date: August 8, 2013

Meeting Time: 10:00 a.m. – 12:00 p.m.

**Location: Governor's Office of Crime Control & Prevention
300 E. Joppa Road, Suite 1105
Baltimore, MD 21286**

Members in Attendance:

Tammy Brown, Chair, GOCCP

Kara Aanenson, Community Law in Action, Inc.

Secretary Sam Abed, Department of Juvenile Services

Delegate Jill Carter

Paul DeWolfe, Office of the Public Defender

Kieran Dowdy for Secretary Gary Maynard, Department of Public Safety & Correctional Services

James Green, Baltimore City Police Department

Jabriera Handy, Community Law in Action, Inc.

Gayle Jordan-Randolph, Department of Health & Mental Hygiene

Bart Lubow, Anne E. Casey Foundation

Colonel W.J. Smith for Mary Lou McDonough, Prince George's County Correctional Center

Robert Smolek for Colonel Marcus Brown, Maryland State Police

Alice Wilkerson for Senator Jamie Raskin

Judge Brett Wilson, Dorchester County Circuit Court

Carlotta Woodward, Montgomery County State's Attorney's Office

Guests in Attendance:

Tina Borner, Office of Juvenile Justice and Delinquency Prevention

LaMar Davis, The Choice Program

Lindsay Eastwood, Department of Legislative Services

Leannetta Jessie, Family League of Baltimore City

Gerald Loiacono, Administrative Office of the Courts

Eric McMullen, Department of Health & Mental Hygiene

Ronald Means, Department of Health & Mental Hygiene

Justin Reynolds, Baltimore Police Department

Camilla Roberson, Public Justice Center/Just Kids

Jason Tashea, Advocates for Children and Youth

Betsy Tolentino, Department of Juvenile Services

Lisa Wyckoff, Circuit Court for Baltimore County

GOCCP Staff in Attendance:

Lashonde Beasley, Program Monitor

Linda Koban, State DMC Coordinator

Shari Morris, Juvenile Justice Compliance Monitor

Justice Schisler, Eastern Region Chief
Jessica Winpigler, Juvenile Justice Policy Unit Manager
Jeffrey Zuback, Director of Maryland Statistical Analysis Center

I. Welcome & Introductions

Tammy Brown, Chairwoman, welcomed everyone to the first meeting of the Task Force on Juvenile Court Jurisdiction. Members, guests, and staff introduced themselves.

II. Overview of House Bill 786

Ms. Brown provided an overview of HB 786 which established the task force to:

- Study current laws on juvenile court jurisdiction;
- Review current research on best practices for court treatment of youth accused of committing criminal offenses and;
- Make recommendations including:
 - Whether to eliminate mandatory direct filing of adult criminal complaints for youth alleged to have committed a legislatively specified list of 33 enumerated offenses and to restore juvenile court discretion in certain cases;
 - The benefits and challenges of retaining youth under juvenile court jurisdiction;
 - Methods of reducing the number of youth in adult detention centers;
 - The long term fiscal impact of treating youth in the adult criminal system and;
 - The impact of these policies on the State.

The task force is charged with reporting its findings and recommendations to the Governor and General Assembly by December 1, 2013.

III. Current Laws & Practices

Betsy Tolentino, Department of Juvenile Services (DJS) Director of Legislative Policy and Planning, outlined the legal routes through which a youth (under 18 when the offense is allegedly committed) can be detained, tried, or sentenced in the adult criminal system and the mechanisms and stages at which s/he can be transferred from the adult system to the juvenile system:

- *Automatic Exclusion or Direct Filing*
 - When a youth (ages 14 to 18 depending on the alleged offense) is charged with one of 33 statutorily specified offenses, a criminal complaint is filed in the adult criminal system. The law allows these youth to be detained in juvenile facilities. Most of these youth are also eligible to be “transferred” or “reverse waived”

back to the juvenile system prior to trial if they are found able to benefit from juvenile court services, or for disposition if they are convicted of a less serious offense that is not included in the 33 offenses enumerated in the statute.

- *Judicial Waiver from Juvenile to Adult Court*
 - After conducting a hearing in which expert testimony (i.e., results of evaluation) is often presented, the Court makes specific findings about the child's age, size, and amenability to treatment in the juvenile system and a juvenile court judge can send or "waive" a child to the adult criminal court if he is age 7 or older and is charged with a crime that would be punishable by life in prison or death if committed by an adult OR for any offense if the child is age 15 or older.

- *Transfer of a Youth to Juvenile Court after having been Directly Filed in Adult Criminal Court (also known as Reverse Waiver)*
 - Upon petition to the adult court by the child or on its own motion the judge conducts a hearing and determines if the child can benefit from the services offered in the juvenile system. The criminal court judge conducting the hearing is not required to have previously been a juvenile judge or to have expertise in child and adolescent development.

After reviewing the statutory procedures governing the waiver and transfer of juveniles to the adult court, Secretary Sam Abed reported that DJS, the Department of Public Safety & Correctional Services (DPSCS), the Baltimore City State's Attorney's Office, and the Office of the Public Defender have entered into a consent motion effective July 1, 2013 to house Baltimore city juveniles charged as adults and who meet the eligibility criteria for a transfer to juvenile court at DJS. These youth will be expeditiously transferred from adult holding facilities to the Baltimore City Juvenile Justice Center (BCJJC). There are currently 20 youth at BCJJC under this agreement. The total population at BCJJC was approximately 92 as of August 7, 2013. As of the meeting date, 29 male youth were detained in BCDC. The maximum capacity of the BCJJC is 120.

This process is enabled by the successful efforts to reduce the detention of juvenile court youth through the use of an objective risk assessment program and the development of diversion programs and alternatives to detention. Juveniles charged as adults and detained in the juvenile facility are not subject to the provisions of the juvenile law requiring an adjudicatory hearing to be held within sixty (60) days as well as to time limits on detention, without a court finding of good cause.

Mr. James Green asked about the protocol should DJS reach its maximum capacity. Secretary Abed stated that the youth who are currently being housed at DJS under the agreement would stay at the adult detention facility until there is space for them at BCJJC.

Mr. DeWolfe emphasized that this level of partnership and collaboration is unprecedented. Just one year ago, there were discussions of building a new jail for these youth but because of efforts such as the Juvenile Detention Alternatives Initiative (JDAI) aimed at reducing the number of youth in detention, we are now able to house the eligible youth awaiting hearings in juvenile custody.

Secretary Abed noted that the youth housed at BCJJC under the agreement have acclimated well and are receiving the same treatment and services as other youth in the facility under juvenile court jurisdiction. He reported that this procedure will be extended to females as soon as renovations currently under way at the Waxter Center are completed.

Ms. Brown asked for the time frame between the juvenile entering central booking and being transferred to detention at BCJJC. Kieran Dowdy, Special Assistant to Secretary Gary Maynard of DPSCS, responded that youth eligible for the new procedure are transported to the juvenile detention center following completion of intake and medical evaluations. Mr. Dowdy estimated that juveniles spend a maximum of two or three days in the adult booking center. They are transported to court for adult criminal proceedings by DPSCS transportation officers. Ms. Jordan-Randolph noted that it would be helpful to understand the impact of health care providers in this process.

Secretary Abed noted that the task force will need data from across systems to determine the number of youth that are charged as adults and not reverse waived to the juvenile system. Judge Wilson stated that transfer investigations are completed and should be provided to DJS. Secretary Abed stated that investigations are not completed in every jurisdiction therefore collection of data on the number of them would not be accurate. In addition responsibility for conducting investigations for waiver and transfer hearings was just recently assigned to DJS in Baltimore. These investigations were previously conducted by the city's adult court medical office.

IV. Current & Historical Data

Mr. Dowdy provided the task force with quarterly data on inmates sentenced under DPSCS jurisdiction and the juvenile average daily population for the last 4 fiscal years at the Baltimore City Detention Center (BCDC) reflecting a significant decrease.

Ms. Aanenson asked if the women are housed separately from the men at BCDC. Mr. Dowdy responded that the women are housed separate in the women's center. Ms. Aanenson also inquired about the educational services that are provided to the youth detained at BCDC. Mr. Dowdy explained that the Baltimore City schools and the Department of Labor, Licensing, and Regulation (DLLR) provide the educational services at BCDC. The Maryland State Department of Education (MSDE) provides the educational services at all DJS facilities. Ms. Handy asked if the teachers at BCDC receive specialized training to work with the juvenile offenders. Secretary Abed responded that they are not specially trained to work with the juvenile population. Ms.

Tolentino added that DJS and DPSCS officers are trained at the same academy and there is some cross-training occurring.

V. Juvenile Justice and Delinquency Prevention Act (JJDP) & Prison Rape Elimination Act (PREA)

Ms. Shari Morris, GOCCP Compliance Monitor, provided the task force with an overview of the JJDP and PREA regulations. The JJDP core requirements are:

- Removal of status offenders from secure facilities
- Sight and sound separation of juveniles from adults in all facilities
- Removal of juveniles from adult jails including police booking facilities
- Reduction in the measures of disproportionate contact by minority youth with the juvenile justice system.

Secretary Abed and Mr. Dowdy indicated that both agencies were involved in achieving compliance with PREA regulations at their respective facilities. Ms. Winpigler will provide members with the PREA Resource Center website for additional information on the federal requirements.

VI. Next Steps

The task force identified specific data and information needs:

- Number of youth charged as adults that stay in the adult court jurisdiction
- Average length of stay for youth statewide in the adult detention centers
 - Disaggregated by eligibility for transfer, race, offense, age, and zip code
- Average time spent in jails awaiting transfer determination
- Sentencing/disposition outcomes for youth transferred back to the juvenile system and waived vs. direct filed youth
- Identification of statutory and practical delivery of educational, recreational, medical, mental health, and addiction services for youth in the juvenile system and youth detained in the adult system
- A comparison of the collateral consequences of juveniles charged, tried, and or sentenced in the juvenile system vs. the adult system.

The task force requested that a workgroup convene to address the policies and services applicable to juveniles in the juvenile justice system versus services provided to juveniles charged as adults held at the juvenile detention center and those held at the adult detention center/prison. The workgroup will consist of Kara Aanenson, Lindsay Eastwood, Camilla Roberson, Jason Tashea, Betsy Tolentino, and Jessica Winpigler. The work group was also asked to report on best practices for treatment or rehabilitation of youth who would be returned to the juvenile justice system if most or all of the excluded offenses were eliminated from the statute.

Meeting Date: September 10, 2013

Meeting Time: 11:00 a.m. – 1:00 p.m.

**Meeting Location: Lowe House Office Building
Prince George's County Delegation Room
6 Bladen Street
Annapolis, MD 21401**

Members in Attendance:

Tammy Brown, Chair, GOCCP

Kara Aanenson, Community Law in Action, Inc.

Secretary Sam Abed, Department of Juvenile Services

Heather Amador, Anne Arundel County State's Attorney's Office

Delegate Jill Carter

Paul DeWolfe, Office of the Public Defender

James Green, Baltimore City Police Department

Jabriera Handy, Community Law in Action, Inc.

Marion Mattingly, Juvenile Justice Advocate

Secretary Gary Maynard, Department of Public Safety & Correctional Services Mary Lou

McDonough, Prince George's County Correctional Center

Erin McMullen & Dr. Robert Means for Deputy Secretary Gayle Jordan-Randolph, Department of Health & Mental Hygiene

Lt. Robert Smolek for Colonel Marcus Brown, Maryland State Police

Alice Wilkerson for Senator Jamie Raskin

Judge Brett Wilson, Dorchester County Circuit Court

Carlotta Woodward, Montgomery County State's Attorney's Office

Guests in Attendance:

LaMar Davis, The Choice Program

Kieran Dowdy, Department of Public Safety & Correctional Services

Leannetta Jessie, Family League of Baltimore City

James Johnston, Office of the Public Defender

Gerald Loiacono, Administrative Office of the Courts

Al Passarella, Advocates for Children & Youth

Justin Reynolds, Baltimore Police Department

Camilla Roberson, Public Justice Center/Just Kids

Jason Tashea, Advocates for Children and Youth

Betsy Tolentino, Department of Juvenile Services

Lisa Wyckoff, Circuit Court for Baltimore County

GOCCP Staff in Attendance:

Lashonde Beasley, Program Monitor

Bill Harper, Compliance Monitor

Linda Koban, State DMC Coordinator

Justice Schisler, Eastern Region Chief

Jessica Winpigler, Juvenile Justice Policy Unit Manager

I. Welcome & Introductions

The meeting convened at 11:05 a.m. Members, guests, and staff introduced themselves.

II. Approval of Minutes

Members were provided with minutes from August 8, 2013. Secretary Maynard made a motion to approve the minutes. Delegate Carter seconded the motion. All were in favor and the minutes were approved.

III. Data Gathered

Members were provided with a data package containing:

- Juveniles held in adult jails and detention centers on 8/12/13 (collected by the Office of the Public Defender) and juveniles held in adult jails and detention centers on 8/23/13 (collected by Marylou McDonough)
- Average daily population of juveniles at the Baltimore City Detention Center (BCDC) from FY 2011 – FY 2013
- Average Length of Stay for the juvenile population at BCDC for FY 2011 – FY 2013
- Charged offenses for the juvenile population at BCDC for FY 2011 – FY 2013

The data shows that Prince George's County had the highest number of juveniles at the adult detention center on the date surveyed. Several facilities did not have any juveniles being held on the day they were surveyed. Ms. McDonough noted that it is difficult to calculate the average length of stay at the local level due to the transient nature of pre-trial detention.

Secretary Maynard noted that as of the meeting date, there were 15 boys at BCDC and zero females. The average length of stay at BCDC was 111 days in FY 2011 and is now 87 days. Mr. Johnston asked if DPSCS can provide data on the number of youth that are transferred to other facilities for specific services such as mental health at the Patuxent Institution. Secretary Maynard stated that he would follow up on this.

Ms. Aanenson asked if data could be gathered on the number of juveniles that are initially charged in the adult system but are sent back to the juvenile system. Ms. Aanenson cited a report that was released by DJS containing this data. Ms. Winpigler stated that this data was from GOCCP's Compliance Monitoring Data Collection System (CMDCS). While the CMDCS is one option for the Task Force to consider, the primary function of the CMDCS is compliance monitoring and therefore it is difficult to confirm the accuracy of some self-reported data.

IV. Standards of Detention

Ms. Tolentino provided members with a chart containing the statutory and regulatory minimum standards for youth under DJS jurisdiction. Ms. Tolentino also provided members with a section of the Department's Data Resource Guide which outlines the committed programs provided by DJS. Mr. Dowdy provided members with the education, mental health, physical health, recreation, living quarters, programming, and court process standards for youth held at BCDC. Ms. Aanenson stated that the Task Force will need this information for all of the local detention centers as it varies from county to county. Ms. Aanenson asked about the DPSCS policy for youth to attend school if the facility is in lock-down. Mr. Dowdy will follow up on this.

V. Best Practices Workgroup Update

Ms. Aanenson provided members with an overview of the 2000 Task Force on Juvenile Court Jurisdiction and the recommendations that were in the final report. Data collection was highlighted as a challenge and the task force recommended a streamlined approach to gathering and disseminating data on the youth charged as adult population. The 2000 Task Force also recommended an acceleration of the transfer process (within 10 days) and that the judge should have final discretion as to the jurisdiction of the youth.

Ms. Roberson provided members with an overview of the wide range of research that exists on the issue of charging youth as adults. The research consistently concluded that transfer laws putting juveniles in the adult system does not reduce recidivism. The majority of the research articles that Ms. Roberson reviewed promoted the judicial waiver process and the removal of juveniles from adult jails. In addition, the research supports the development of trauma-informed treatment services for youth. Secretary Abed noted that there has been a steady decline in crime yet the research indicates that charging juveniles as adults does not have a deterrent effect on reducing recidivism. Delegate Carter asked if there are primary reasons cited in the research as to why there is no correlation between reducing recidivism and juveniles charged as adults such as lack of opportunity, sealed records in the juvenile system, etc. Ms. Roberson stated that studies have not clearly listed why crime has reduced and it varies by jurisdiction. Delegate Carter asked if there are studies showing the distinction between where juveniles are held (juvenile vs. adult detention center). Secretary Abed stated that Virginia has blended sentencing where youth can be sentenced as an adult but are held in the juvenile center until they reach the age of 18 to finish the rest of their sentence in the adult jail/prison. Secretary Abed also noted that it is difficult to compare recidivism rates between the juvenile and adult system as they are defined differently. Ms. Brown asked if there was research on the outcomes of blended sentencing for the youth serving their sentence in the juvenile system. Ms. Roberson indicated that research has not been very positive on blended sentencing as it can have a net widening effect for judges to use as a sanction for youth that are not doing well during their time in the juvenile facility.

Ms. Mattingly shared her opinion that all cases should begin in the juvenile court as the brain has not fully developed until the mid twenties and juveniles are unable to make clear and

rationale decisions until they have reached full development. Secretary Abed stated that fundamentally the juvenile system does not contemplate punishment and it may not be appropriate for every youth. Some youth may not be eligible for rehabilitation. There are certain egregious acts that should be reserved for the adult system. Ms. Woodward noted that there are juveniles that commit serious offenses and the juvenile system is not currently equipped to handle those youth. Many of them do not meet the eligibility requirements, especially older youth, for the programs currently available and may end up on home detention due to lack of other options. Secretary Abed agreed that this is an issue that needs to be addressed. Maryland currently has one hardware secure facility for boys, Victor Cullen, and one secure facility for girls, Carter.

Mr. Green stated that the law enforcement community would be supportive of beginning juvenile cases in the juvenile court but also understands the restrictions that the State currently has with handling serious offenders in the juvenile system. Mr. Green stated that the current process in Baltimore City to hold juveniles in the juvenile center seems to be having positive effects and would like to see this occurring statewide. Ms. Amador stated that from a victim's services standpoint, it would be difficult to support an approach that would send a juvenile who has committed a serious offense back to the juvenile system only to have them not be selected by a treatment program and serve their entire disposition on home detention.

VI. Advocates for Children & Youth Report

Mr. Tashea provided members with the Advocates for Children & Youth report on transferred youth from the adult system and the outcomes in Baltimore City. The report was released in September 2013. The study focused on the 907 youth arrested and charged as adults in Baltimore City from January 1, 2009 through December 31, 2011 that were granted transfer (255 youth). Of the 255, a sample of 100 cases was selected. Mr. Tashea noted that the sample size was selected due to capacity reasons. The sample is not randomized and was selected to show a diverse range of cases.

VII. Next Steps

Ms. Brown indicated that the Task Force must begin to frame the discussions so that everyone's opinions are being heard and all of the options are on the table. GOCCP staff will develop a survey to send to each member seeking their opinion on the recommendations that should be made to the Governor and General Assembly. The survey results will be discussed at the next meeting. In addition, Ms. Brown recommended that a subcommittee convene to develop data recommendations. The following participants agreed to join the subcommittee: Gerald Loiacono, Leannetta Jessie, Bart Lubow, Mary Lou McDonough, and Camilla Roberson. In addition, staff from the DPSCS and DJS data units will participate.

In addition, other follow up items include:

- Secretary Maynard to review the number of youth who are transferred to other facilities for specific services (i.e. Patuxent).
- Mr. Dowdy to review the DPSCS policy on juveniles attending school if the facility is on lock-down.
- DJS to provide additional information on the data that is received by the local detention centers on youth charged as adults.

Meeting Date: October 15, 2013

Meeting Time: 11:00 a.m. – 1:00 p.m.

**Meeting Location: Lowe House Office Building
Prince George’s County Delegation Room
6 Bladen Street
Annapolis, MD 21401**

Members in Attendance:

Tammy Brown, Chair, GOCCP
Kara Aanenson, Community Law in Action, Inc.
Secretary Sam Abed, Department of Juvenile Services
Heather Amador, Anne Arundel County State’s Attorney’s Office
Delegate Jill Carter
Paul DeWolfe, Office of the Public Defender
James Green, Baltimore City Police Department
Jabriera Handy, Community Law in Action, Inc.
Bart Lubow, Annie E. Casey Foundation
Marion Mattingly, Juvenile Justice Advocate
Secretary Gary Maynard, Department of Public Safety & Correctional Services
Yolanda Evans for Mary Lou McDonough, Prince George’s County Correctional Center
Deputy Secretary Gayle Jordan-Randolph, Department of Health & Mental Hygiene
Lt. Robert Smolek for Colonel Marcus Brown, Maryland State Police
Senator Jamie Raskin
Judge Brett Wilson, Dorchester County Circuit Court
Carlotta Woodward, Montgomery County State’s Attorney’s Office

Guests in Attendance:

Ann Ciekot, Just Kids Partnership
LaMar Davis, The Choice Program
Kieran Dowdy, Department of Public Safety & Correctional Services
Lindsay Eastwood, Department of Legislative Services
Barbara Hoffman, The Artemis Group
James Johnston, Office of the Public Defender
Sarah Kaplan, MD Judiciary
Gerald Loiacono, Administrative Office of the Courts
Dr. Ronald Means, Department of Health & Mental Hygiene

Suzanne Pelz, Maryland Judiciary
Camilla Roberson, Public Justice Center/Just Kids
Betsy Tolentino, Department of Juvenile Services
Adam Wheeler, MD Judiciary
Alice Wilkerson, Senator Jamie Raskin's Office

GOCCP Staff in Attendance:

Lashonde Beasley, Program Monitor
Justice Schisler, Eastern Region Chief
Jessica Wheeler, Juvenile Justice Policy Unit Manager

I. Welcome & Introductions

Ms. Brown welcomed members and guests. Meeting participants introduced themselves.

II. Approval of Minutes

Members were asked to review the meeting minutes from September 10. Ms. Mattingly requested that she be included in the list of participants for the meeting as she was in attendance and that her comments regarding the age that a juvenile's brain reaches full development be changed from "21" to "mid-twenties". Mr. DeWolfe made a motion to accept the minutes with these changes. Mr. Dowdy seconded the motion. All were in favor and the minutes were approved with changes.

III. Data Workgroup

The data workgroup met on October 7 and the meeting minutes were distributed to meeting attendees. Ms. Aanenson stated that the workgroup discussed various data collection barriers as well as existing data that can be utilized for the Task Force's needs. Ms. Tolentino added that the workgroup discussed the possibility of conducting a longitudinal study on the past 5 – 10 years to determine case outcomes for juveniles charged as adults. The data workgroup also discussed cross-referencing GOCCP's compliance monitoring data that is collected from local detention centers with court records. Ms. Brown indicated that GOCCP collects self-reported data for compliance monitoring purposes but the workgroup should also explore a mechanism for systematically collecting data from the local detention centers for the purposes of the Task Force. Ms. Tolentino stated that the workgroup is scheduled to meet again on October 30 to further discuss the data gaps and barriers. Mr. Lubow stated that the Task Force must provide research questions that they want answered so that the data workgroup has a clear agenda.

IV. Task Force Responses to Request for Comments

Ms. Winpigler summarized the responses received from the Request for Comments. GOCCP received responses from 12 out of 17 members. Most of the responses were open-ended and

some seemed favorable to the possibility of eliminating the exclusionary offenses, however, most responses stated that more data is needed before a final recommendation can be made.

Mr. DeWolfe stated that he would like for the Task Force to address the fundamental issue, which was created decades ago, of limiting jurisdiction of juvenile court to specific age groups. This policy was put in place under the assumption that children were becoming more dangerous and committing more serious offenses that the juvenile court was unable to handle. Secretary Abed stated that the Department of Juvenile Services (DJS) needs more information and a formalized data collection and analysis process before a philosophical opinion on policy can be formulated. It is important to ensure that the policy does not advance the implementation practicalities. For example, before the consent motion for youth charged as adults in Baltimore City to be housed in the Baltimore City Juvenile Justice Center (BCJJC) pending trial was implemented, a thorough data forecast was conducted to understand the population and the potential implications of the policy. Senator Raskin indicated that the Task Force should state their policy presumption and indicate what would be needed to implement such a policy. Judge Wilson echoed his comments in the survey regarding unintended consequences. Judge Wilson stated that implementation of a new policy cannot occur until more information is received.

Ms. Mattingly stated that based on the substantive amount of research, all juvenile cases should originate in the juvenile court.

Mr. DeWolfe stated that he is very cognizant of DJS' concerns but the population that would be impacted by a policy change is relatively small (250 per year in Baltimore City and approximately 700 statewide based on OPD's research). This Task Force can make recommendations on the fiscal impact but must first answer the question on whether or not to eliminate the exclusionary offenses. Secretary Abed agreed that the fiscal impact can be determined, however, he disagreed that the population is small and would not create a fiscal burden on existing resources.

Ms. Brown recommended that the Task Force examine other policies within the current legal framework to see where change can be made. For example, juveniles charged as adults could be held as juveniles and processed by the circuit court as juveniles. This would increase case processing efficiency and could ultimately lead to better outcomes. Delegate Carter fundamentally disagreed with the direction that this would take the Task Force. The policy stance must be taken first which will drive the logistical implementation. There is a negative stigma associated with youth who are charged as adults that will stay with them for the rest of their life.

Ms. Amador stated that she would be supportive of all juvenile cases originating in the juvenile court if she felt confident in the State's ability to provide adequate services to these youth. She does not feel that the State has the resources to serve this new population and a policy change would ultimately lead to an increase in out-of-state placements and/or unsuccessful placements.

Mr. Green stated that from a public safety perspective, the Task Force needs to examine the 33 exclusionary offenses individually to determine if changes need to be made within the existing system. Mr. Green stated that more data is needed on youth charged with those exclusionary offenses in order for the Task Force to make recommendations.

Ms. Woodward explained that her concern as an Assistant State's Attorney is that juveniles are going into the juvenile system for services; however, the system is not equipped to adequately treat juveniles who may have committed very serious crimes. Also, the youth can decline the services and often times DJS will unsuccessfully close the case at age 18.

Senator Raskin asked for clarification on how the case of a juvenile who has committed a very serious offense would be treated differently if it originated in the juvenile system since there is still the option for the State to file for a waiver. Ms. Woodward stated that there is a public safety concern as well as a victim's advocacy concern. Secretary Abed stated that there are major differences when you originate a case in the juvenile court, for instance, the case is processed much faster in the juvenile system as there are more stringent timeframes. The adult court system provides more time to prepare a case. In addition, the burden is on the state to argue that a juvenile case should be sent to adult court whereas the burden is on the defendant to argue a transfer to juvenile court.

Delegate Carter asked members to elaborate on their concerns for the state to meet the burden to argue a waiver if all juvenile cases originate in the juvenile court system. Ms. Amador stated that her concern as a victim services coordinator at a State's Attorney's Office is that the timeframe in the juvenile system is very limited and often a waiver report will take months to prepare. Delegate Carter stated that a request for continuance from the court is always an option and that policy decisions shouldn't be made based on a process issue.

Mr. DeWolfe suggested a motion to study the impact of eliminating the exclusionary offenses. Secretary Abed supported this potential motion. Judge Wilson indicated that the Task Force will need to define "impact". Mr. DeWolfe suggested that the study examine the systematic and financial impact on DJS.

Ms. Hoffman stated that the Task Force should begin with a policy statement and support legislation that would require pertinent data to be provided. Ms. Ciekot suggested that the Task Force develop language for the policy statement to include flexibility. For example, it would state that the Task Force recommends that all exclusionary offenses be eliminated; however, a thorough analysis of the potential fiscal and systematic impact must be conducted prior to the implementation date. Members were supportive of this approach and Ms. Brown indicated that a draft policy statement would be presented to the Task Force at the next meeting.

V. Next Steps

Ms. Brown stated that GOCCP will provide the list of exclusionary offenses to the Task Force for review and discussion at the next meeting. The next meeting is scheduled for November 5th at 2:00 p.m. in the Prince George's County Delegation Room. Another meeting was scheduled for November 18th at 9:00 a.m. in the same location.

Meeting Date: November 5, 2013

Meeting Time: 2:00 p.m. – 4:00 p.m.

**Meeting Location: Lowe House Office Building
Prince George's County Delegation Room
6 Bladen Street
Annapolis, MD 21401**

Members in Attendance:

Tammy Brown, Chair, GOCCP

Kara Aanenson, Community Law in Action, Inc.

Secretary Sam Abed, Department of Juvenile Services

Heather Amador, Anne Arundel County State's Attorney's Office

Delegate Jill Carter

Kieran Dowdy for Secretary Maynard, Department of Public Safety & Correctional Services

James Green, Baltimore City Police Department

James Johnston for Paul DeWolfe, Office of the Public Defender

Jabriera Handy, Community Law in Action, Inc.

Bart Lubow, Annie E. Casey Foundation

Marion Mattingly, Juvenile Justice Advocate

Yolanda Evans for Mary Lou McDonough, Prince George's County Correctional Center

Erin McMullen for Deputy Secretary Jordan-Randolph, Department of Health & Mental Hygiene

Capt. Robert Smolek for Colonel Marcus Brown, Maryland State Police

Alice Wilkerson for Senator Jamie Raskin

Carlotta Woodward, Montgomery County State's Attorney's Office

Guests in Attendance:

LaMar Davis, The Choice Program

Lindsay Eastwood, Department of Legislative Services

Janet Hankin, Office of the State's Attorney, Baltimore City

Barbara Hoffman, The Artemis Group

Leanetta Jessie, Family League of Baltimore City, Inc.

Sarah Kaplan, MD Judiciary

Gerald Loiacono, Administrative Office of the Courts

Suzanne Pelz, Maryland Judiciary

Camilla Roberson, Public Justice Center/Just Kids

Betsy Tolentino, Department of Juvenile Services

GOCCP Staff in Attendance:

Lashonde Beasley, Program Monitor

Jessica Wheeler, Juvenile Justice Policy Unit Manager

Jeffrey Zuback, Maryland Statistical Analysis Center Director

I. Welcome & Introductions

Ms. Brown welcomed members and guests. Meeting participants introduced themselves.

II. Approval of Minutes

Members were asked to review the meeting minutes from October 15. Secretary Abed made a motion to accept the minutes. Ms. Amador seconded the motion. All were in favor and the minutes were approved.

III. Data Update

Ms. Brown informed the Task Force that GOCCP extracted three years of data from the Compliance Monitoring Data Collection System (CMDACS). Five years of data is needed for the data forecast. GOCCP is working to get this additional data from the local jails and detention centers and will keep members informed of the progress in gathering this data.

The draft policy statement was emailed to members prior to the meeting for review. There is consensus surrounding the second portion of statement regarding the forecasting needs, however, there is not a consensus regarding the language of eliminating the exclusionary offenses.

IV. State's Attorney's Discussion

Ms. Woodward, representing the Maryland State's Attorney Association (MSAA), stated that the MSAA does not support a recommendation to eliminate some or all of the exclusionary offenses. Ms. Woodward emphasized the need to consider public safety and the victims of crimes committed by juveniles. Ms. Woodward invited Janet Hankin, representing the Baltimore City State's Attorney's Office and Scott Schellenberger, the Baltimore County State's Attorney, to speak with the Task Force about their concerns.

Ms. Hankin stated that the Baltimore City State's Attorney's Office strongly opposes the policy statement to eliminate all exclusionary offenses. Ms. Hankin noted that some youth may not make themselves available or "amenable" to services in the juvenile justice system and their case would be closed when they turned 18. Ms. Hankin also noted that there is no statutory reference to the term "amenable", therefore, attorneys use the common definition of "subjecting oneself to the authority or control of someone else". Ms. Hankin proposed that the Task Force compare recidivism rates for juveniles in the juvenile justice system versus juveniles

in the criminal justice system. There have been national studies on this; however, Maryland has not fully analyzed this. This was requested by the 2000 Task Force.

Mr. Schellenberger provided a PowerPoint presentation to the Task Force which highlighted several Baltimore County cases involving juveniles prosecuted for exclusionary offenses. Mr. Schellenberger asked the Task Force to consider the staff safety at the juvenile facilities should the exclusionary offenses be eliminated. Ms. Schellenberger also noted that there is a lack of services in Maryland to treat the youth who would be sent back to the juvenile system should the exclusionary offenses be eliminated. Ms. Mattingly stated that the Task Force should request that the legislator increase funding for treatment services in Maryland for these youth.

V. Exclusionary Offense Discussion

Mr. Green echoed his remarks from the October 15th meeting regarding the need to analyze each exclusionary offense with the appropriate data to consider all options. Mr. Green suggested there may be several options to include increasing the age of juvenile court jurisdiction for certain offenses and/or revisiting the category of offenses which statutorily prevent the court from considering a transfer motion. Without the data, meaningful recommendations cannot be made. Mr. Green also stated that in Baltimore City, the State's Attorney participates with the police in the initial charging decision and an expansion of prosecutorial review of juveniles charged as adults would be beneficial (ASA Hankin also expressed the expanded role of prosecutors in these decisions).

Secretary Abed stated that once the data is gathered from the local jails and detention centers, DJS will contract with a third-party vendor through an RFP process to conduct the forecast and determine the long term impact. Mr. Lubow stated that another option would be to collaborate with foundations that may be able to conduct the analysis. Mr. Lubow will research this option and report back to the Task Force. Members agreed that there is room for improvement within the current system and the Task Force should work to build infrastructure for additional services to meet the needs of youth in Maryland.

VI. Next Steps

GOCCP will provide members with revised policy language as well as a list of all recommendations that have been discussed by the Task Force to clarify where there is consensus. The next meeting is scheduled for November 18, 2013 from 9:00 a.m. – 11:00 a.m. in the Prince George's County Delegation Room (House Office Building) located at 6 Bladen Street, Annapolis, MD.

Meeting Date: November 18, 2013

Meeting Time: 9:00 a.m. – 11:00 a.m.

**Meeting Location: Lowe House Office Building
Prince George's County Delegation Room
6 Bladen Street
Annapolis, MD 21401**

Members in Attendance:

Tammy Brown, Chair, GOCCP

Kara Aanenson, Community Law in Action, Inc.

Secretary Sam Abed, Department of Juvenile Services

Heather Amador, Anne Arundel County State's Attorney's Office

Delegate Jill Carter

Paul DeWolfe, Office of the Public Defender

Kieran Dowdy for Secretary Maynard, Department of Public Safety & Correctional Services

James Green, Baltimore City Police Department

Jabriera Handy, Community Law in Action, Inc.

Bart Lubow, Annie E. Casey Foundation

Marion Mattingly, Juvenile Justice Advocate

Mary Lou McDonough, Prince George's County Correctional Center

Erin McMullen for Deputy Secretary Jordan-Randolph, Department of Health & Mental Hygiene

Alice Wilkerson for Senator Jamie Raskin

Carlotta Woodward, Montgomery County State's Attorney's Office

Guests in Attendance:

Elizabeth Embry, Office of the State's Attorney, Baltimore City

Barbara Hoffman, The Artemis Group

Leannetta Jessie, Family League of Baltimore City, Inc.

James Johnston, Office of the Public Defender

Gerald Loiacono, Administrative Office of the Courts

Camilla Roberson, Public Justice Center/Just Kids

Jason Tashea, Advocates for Children and Youth

Betsy Tolentino, Department of Juvenile Services

GOCCP Staff in Attendance:

Lashonde Beasley, Program Monitor

Linda Koban, Statewide Disproportionate Minority Contact Coordinator

Patty Mochel, Communications Manager

Justice Schisler, Eastern Region Chief

Jessica Wheeler, Juvenile Justice Policy Unit Manager

I. Welcome & Introductions

Ms. Brown welcomed members and guests.

II. Approval of Minutes

Members were asked to review the meeting minutes from November 5, 2013. Ms. Embry, representing the Office of the State's Attorney in Baltimore City, clarified Ms. Hankin's statement in section IV, paragraph 2, which should read: "Ms. Hankin stated that the Baltimore City State's Attorney's Office strongly opposes the policy statement to eliminate all exclusionary offenses."

Secretary Abed made a motion to accept the minutes as revised. Ms. Amador seconded the motion. All were in favor and the minutes were approved.

III. Recommendations

Members were asked to submit comments on the following recommendations after the last meeting:

1. The Task Force recommends that a thorough analysis of the capital, programmatic and staffing needs be completed to evaluate proposed policy changes that would expand juvenile court jurisdiction. This analysis, conducted by an independent, third party contractor, must include a comprehensive population forecast, a fiscal impact study and an estimate of the time necessary to build services and capacity in the juvenile system.
2. The Task Force recommends that all youth aged 16 and 17 have the ability to petition the court for transfer to the juvenile system, regardless of the offense charged.

Ms. Mattingly stated that she does not feel that recommendation #1 is necessary and shouldn't be a precursor to eliminating the statute that charges juveniles as adults. Ms. Aanenson echoed Ms. Mattingly's comments and stated that she understands the intent of the study; however, it should not be a barrier to moving forward with policy changes. Judge Wilson stated that the Task Force must be mindful in making recommendations to the legislators before knowing the true impact that such a change would have on the Department of Juvenile Services. Ms. Aanenson requested that the language in recommendation #1 be modified to include a study of the juveniles that are transferred back to the juvenile court jurisdiction from the adult system and their case dispositions. Ms. Aanenson also inquired about the timeline for collecting the data needed for the study. Ms. Brown explained that GOCCP has requested this data from the local jails and detention centers and hopes to have the data by January 31, 2014. Once the data is received, DJS will begin the process of contracting with a third party to conduct the study, to be completed by July 31, 2014. Mr. Lubow added that the jail and detention data is only a portion of the data that is needed; it must be analyzed in conjunction with court data.

Ms. McDonough brought the Prison Rape Elimination Act (PREA) to the attention of the Task Force as the regulations are affecting the local jails and detention centers with requirements to sight and sound separate all juveniles from adults. Ms. McDonough stated that smaller jurisdictions will have difficulty meeting this requirement with their current physical infrastructure and will be making significant budget requests to the State. Ms. McDonough stated that due to the regulations under PREA that will be placed on local jails and detention centers, she supports housing all juveniles in the juvenile system.

Ms. Aanenson requested that the Task Force strike “build” and add “create” in the second sentence of recommendation #1. Ms. Aanenson also requested that the timeline be included in the recommendation. The revised recommendation will state:

The Task Force recommends that a thorough analysis of the capital, programmatic and staffing needs be completed to evaluate proposed policy changes that would expand juvenile court jurisdiction. This analysis, conducted by an independent, third party contractor, must include a comprehensive population forecast, a fiscal impact study and an estimate of the time necessary to create services and capacity in the juvenile system. The study is expected to be complete by July 31, 2014. Task Force members will be invited to review the study prior to the official release.

Secretary Abed made a motion to accept the newly revised recommendation for the final Task Force report. Ms. Amador seconded the motion. Eleven members were in favor, three members were in opposition, and one member abstained from the vote. Ms. Woodward stated that the Maryland State’s Attorney’s Association (MSAA) has a meeting scheduled for November 25, 2013 to discuss these issues. Until that meeting, MSAA opposes any change in the current statute. Ms. Brown will attend the MSAA meeting and inform the Task Force if their position changes.

Ms. Winpigler received comments regarding Criminal Procedure §4-202(c). The comments request the Task Force to consider §4-202(c)(1) and (2). The recommendations previously disseminated for consideration only included §4-202(c)(3). Mr. DeWolfe made a motion to repeal Criminal Procedure §4-202, Section (c). Eleven members voted in favor of the motion, one member opposed the motion, and two members abstained from the vote.

Ms. Winpigler also received comments regarding Criminal Procedure §4-202, Section E. The intent of the comments surrounding this portion of the statute would be to mandate that the court conduct a study to determine transfer of jurisdiction for every case at the bail review hearing. Mr. DeWolfe explained that this is unnecessary and would be an inefficient use of resources as a study is conducted in all cases that are contested currently. Ms. Woodward explained that there are statutory rules requiring the court to order a study, therefore, a change in this section is unnecessary. Ms. Woodward also stated that there is a 14 day timeframe for an indictment. This timeframe is needed due to the process that prosecutors must go through to prepare for the indictment (speaking with witness, victims, etc.). The consensus was to leave this portion of the statute as is.

Mr. DeWolfe asked the Task Force to consider a third recommendation of housing all juveniles in the juvenile detention system until the transfer hearing with the understanding that this is pending the study in recommendation #1. Secretary Abed stated that the current law allows for this and DJS worked with Baltimore City to conduct a population forecast and create policies and procedures. DJS is interested in doing this in other locales but the population forecast and impact analysis must be completed before it can be implemented to avoid overcrowding or other potential issues that could arise without proper planning. Mr. DeWolfe will draft this proposed recommendation in writing and it will be sent to Task Force members for an e-vote.

IV. Final Report Review and Dissemination Process

Task Force members will receive the draft report for comments by Friday, November 22nd. Members will be asked to submit comments or edits soon thereafter. The final report is due to the Governor and General Assembly by December 1. Ms. Brown indicated that the report will represent all of the views that were discussed during the meetings. The recommendations will be presented as a majority vote.

Appendix E- Comments Regarding Requested Recommendations

Task Force members were asked to comment on the elements of statutory language of Chapter 639 (HB786). Below is a summary of those comments as well as the discussions that took place in response to the charge from the General Assembly.

(1) Whether or not to eliminate the existing exclusionary offenses that automatically result in adult charges for youth and restore juvenile court discretion;

Favorable

- *All exclusionary offenses that automatically result in charges in adult criminal court must be eliminated. All youth should start in the juvenile court system. Waiver to the adult system should occur only after a full hearing upon the determination of a trained juvenile court judge. If the state feels it is necessary to move the case up to adult court, the State's Attorney can file for a waiver hearing, where a judge can make the determination of jurisdiction based on the evidence presented.*

Unfavorable

- *Currently, there is a lack of data regarding this population and as a result DJS is unable to advocate for a change in the current statutory scheme.*

DJS recommends the following to address the void in available data and enhance the understanding of the population of youth charged as adults:

- *Data Collection*
 - *A clear mandate for local jails to provide data on the youth charged as adult population to a central where analysis can be conducted.*
- *Forecasting Committee*
 - *A statewide forecasting committee for all of the populations in custody (the local jail population, the prison population, the juvenile detention population and the juvenile committed population). A population forecast could be completed with the data identified above. A reliable population forecast would provide stakeholders the confidence to explore changes to the current system. Legislation could be proposed to establish a forecasting committee, identify membership, and clearly articulate reporting requirements and frequency.*

- *There is no evidence to suggest a change in the law as it is currently written. The exclusionary offenses represent egregious offenses (i.e. murder, kidnapping, rape, armed carjacking, armed Robbery, use of a handgun etc.) that result in a juvenile being charged automatically as an adult. The exclusionary offenses have potential jail sentences from 20 years to life without the possibility of parole. They are violent offenses against persons within our community, and can result in serious physical injury, deep emotional scars, and even death. The exclusionary offenses are not minor crimes, like shoplifting, drug possession, trespassing, or disorderly conduct.*

The purpose of prosecuting the exclusionary offenses is to protect victims and the community by removing the perpetrator, whether adult or juvenile, from the community. The purpose of such prosecution is not the rehabilitation of the perpetrator, which is the exclusive purpose of the juvenile justice system. Accordingly, juveniles who engage in heinous criminal behavior should be prosecuted in the adult criminal justice system where the interest of the victims and the community are paramount. The people of this State have a right to live in a safe community, and the current law charging juveniles as adults for certain exclusionary offenses ensures the preservation of that right.

In the rare instance where rehabilitation is appropriate for a juvenile who is charged with an exclusionary offense, there are provisions in the current law that allow for the juvenile to request a transfer from the adult court to juvenile court. In such case, the circuit court judge has the discretion to transfer the case to the juvenile system if the judge determines that the juvenile system is appropriate and that the juvenile in question is amenable to rehabilitation through the services provided by the Department of Juvenile Services. Under the current law, a circuit court judge, not the prosecutor, weighs the interest of the victim, the victim's family, and the community against the rehabilitative potential of the juvenile and determines the appropriate venue for the adjudication of the case. There is no rationale basis, much less a compelling one, to change the law.

Mixed/Impartial

- *The current state of the law has not caused any problems for the Judiciary. Current procedures and protocols are well established and functioning without difficulty. The adjustments that must be made to accommodate changes in the law may create unintended consequences.*
- *As often the first responder to a criminal incident and tasked with protection of victims, investigation of crime, and arrest of offenders, the interest of law enforcement in general and the Maryland State Police in particular is that secure detention of juveniles is available, when needed.*

- *It is encouraging that there are significant reductions in the daily population numbers and average length of stay reported from BCDC; however, more statewide information about total processing-arrest through disposition (including transfer) needs to be gathered. It is an overall systems concern that a recent study in one jurisdiction (although not comprehensive) showed that a relatively small percentage of cases originally charged in the adult criminal system remained in the criminal court either due to dismissal of the exclusionary offense or because of transfer to the juvenile system. We must ensure that timely and comprehensive report be provided to the Court and that the hearings are scheduled/held within the statutory framework.*

(2) the benefits of retaining youth under the jurisdiction of the juvenile court;

- *Children are best served in the specialized environment provided by the juvenile courts and DJS, where the focus extends beyond punishment, deterrence, and public safety to include the best interest of the child. Maryland's juvenile justice system provides much more effective treatment and rehabilitative services to delinquent youth than can be provided to children charged as adults and housed in local jails and state correctional facilities.*
- *DJS is committed to serving youth involved in the juvenile justice system. DJS is continuously evaluating the continuum of care to ensure that the array of services provided meet the diverse needs of the youth we serve. One clear benefit of the juvenile justice system is the clear statutory timeframes that ensure a youth's case in the juvenile system is heard by the Court in a timely manner. DJS recommends the following to increase efficiency in the adult court system:*
 - *There should be consideration of case processing time frames in the adult court because in many of these cases, it is taking far too long to get to trial. As a result, youth may remain in adult detention for long stretches which may increase the risk that youth will be harmed.*
 - *Data collection efforts should include current case processing timeframes in each jurisdiction to determine if there are policy changes that could enhance the court's efficiency.*
- *The more juvenile service options available, the more likely it is that a child's case can be disposed of in the juvenile system. The enhancement of juvenile alternatives would result in fewer waivers or denied transfers, but the additional cost to the State would be significant.*
- *The automatic prosecution of youth as adults has failed to deter crime or promote public safety. Multiple studies in different jurisdictions across the nation consistently have found that youth who are prosecuted as adults go on to*

reoffend more often and more violently than their counterparts who are tried and held accountable in the juvenile system for equivalent offenses. Indeed, youth in the adult criminal justice system are approximately 34% more likely than youth retained in the juvenile court system to be re-arrested for violent or other crimes.

Youth automatically charged as adults, if detained, are generally detained in adult jails, a practice known to be harmful for the youth involved. Youth in adult jails and prisons are at significantly greater risk of victimization, suicide, and abuse while in an adult setting than youth in juvenile detention centers.

The collateral consequences of prosecution in the adult system are significant. Youth tried in the adult criminal justice system generally leave with an adult criminal record, even if not convicted. This presents significant obstacles to youth's successful reentry into the community. Unlike the juvenile justice system, the adult corrections system is not required to provide rehabilitative opportunities to youth in its care. Youth leaving adult jails and prisons will have received little or no education, mental health treatment or other services, and will have an adult criminal record that will significantly limit their future educational, employment, and in some cases, housing opportunities for life. Thus, we are left with young adults who as a result of a bad policies face unforeseen and almost insurmountable obstacles. Such obstacles do not accompany adjudication in juvenile court, and certainly should not be imposed mandatorily by law, outside the discretion of someone able to consider the full picture and circumstances surrounding a youth and a charge.

The many harms associated with automatic prosecution of youth as adults are in stark contrast to the benefits associated with continued processing in the juvenile system. As indicated above, in an effective juvenile system, youth who have committed offenses have access to staff trained to work with youth, age appropriate rehabilitative services, age appropriate treatment (mental health, somatic health, behavioral health, etc.), educational services, and other services. They also have access to aftercare and reentry services that if done well will reduce the risk of reoffending. Given the timelines associated with juvenile court, they are likely to be adjudicated and held accountable faster than if in the adult system, a needed factor in dealing with youth. Thus, in addition to holding youth fully accountable quickly for a given offense, intervention at this stage is likely to help the youth learn from his actions and move forward. It also makes fiscal sense in the long term. Researchers have found that for every \$1 spent on youth in the juvenile system, the community save \$3 in costs (costs of confinement, court costs, community costs, opportunity costs, etc.)

- *A systematic review of transfer studies conducted by the Task Force on Community Preventive Services (2007) of the Centers for Disease Control and*

Prevention (CDC) (Hahn, McGowan, Liberman et al., 2007) found that transferring juveniles to the adult justice system generally increased, rather than decreased, rates of violence. Transferred juveniles are 34% more likely to be rearrested for violent or other crimes than are juveniles retained in the juvenile system, an iatrogenic effect (Tonry, 2007). The U.S. criminal justice system has demonstrated that it is unqualified as a model that should be used for juvenile offenders (Howell, 2009, pp. 296–97; Howell, Feld, & Mears, 2012; Howell & Howell, 2007; Kurlychek & Johnson, 2010; Liebman, Fagan, & West, 2000; Tonry, 2007). Adult court processing makes offenders worse; convictions are followed by an increase in offending, juveniles who are dealt with in adult court are more likely to reoffend than other juveniles, and sending young people to adult prisons leads to an increase in recidivism. Neither short nor long prison terms reduce crime (Lipsey & Cullen, 2007). Moreover, the average net cost benefit of the top five evidence-based programs in juvenile systems are nearly four times greater (\$41,000) per offender compared with the five best programs in the criminal justice system (\$11,270) (Aos et al., 2006, p. 9).

- *The exclusionary offenses mandate the removal of a person from the community; therefore, requiring secure facilities to house youthful offenders. Currently, through the Department of Corrections, there is a Youthful Offender Program at Patuxent for youth under the age of 21 who are serving sentences in the adult system. That program provides younger offenders the services necessary while they are serving the appropriate sentence in the adult system for the crime committed. Victor Cullen is the only hardware secure facility in Maryland that has a bed capacity of 48, only services male youth typically from the ages of 15-18, and the program typically lasts 6-9 months. With the lack of appropriate facilities in Maryland to deal with violent youthful offenders, Courts are then forced to look outside the State of Maryland to explore if there are any programs available for the youth to provide services, at an exorbitant expense to the tax payer, in most cases over \$100,000.00 per juvenile.*
- *As the law is currently written, there are provisions that provide for those juveniles charged as adults are able to be held in a juvenile facility pending a transfer hearing in adult court; therefore, limiting juveniles from being housed in adult facilities until there is a finding that the juvenile is to remain in adult court.*
- *In Maryland, once a juvenile is committed for placement a staffing must occur to determine where the juvenile would be receive services. Packets are sent including, but not limited to, the juveniles background, mental health reports, physicals, prior offenses, prior services provided, and information regarding the offense. The programs have the option to reject the juvenile from their program for multiple reasons including, but not limited to, AWOL history, mental health issues, weapons used in commission of the crime, sex offenses, arson and gang*

involvement. Additionally, juveniles can refuse services, or refuse participate in a program and ultimately get removed from the Program. Without services, the court, must release the juvenile back into the community.

In effect, the juvenile who commits an exclusionary offense and remains in the juvenile system will suffer no consequences for the crime.

**(3) methods to reduce the number of youth in adult detention centers and prisons;
and**

- *Historically, DJS has been at or near capacity in most of the juvenile detention facilities. However, through recent efforts in Baltimore City to reform detention utilization the juvenile detention population has decreased at the Baltimore City Juvenile Justice Center (BCJJC). Due the population reduction at BCJJC, DJS was able to develop a process with the Baltimore City Courts, State’s Attorney’s Office, and Office of the Public Defender to accommodate most eligible youth charged as adults in Baltimore City at BCJJC when there is available capacity.*

Listed below are strategies that may result in the reduction of the number of youth in adult detention centers and prisons:

- *Expand efforts to accommodate eligible youth charged as adults in other juvenile detention facilities.*
- *DJS is open to working with other jurisdictions to hold eligible youth charged as adults in juvenile detention. However, there has to be extensive data collection in order to evaluate DJS’s ability to house this population with the current constraints on juvenile detention capacity in most jurisdictions. Prior to agreeing to house youth charged as adults in Baltimore City a considerable amount of data was evaluated and a population forecast completed.*
- *The situs of detention is less of a concern provided the youth is segregated from the adult population and has the named services available if appropriate. Logistically, it may be easier to house youth charged as adults in juvenile detention facilities, but the safety of staff and other youth at those facilities has to be considered. Were that to be the solution, there would need to be sufficient staff, beds and hardware at the youth detention facilities to meet the need. Also, there may be a need to have an additional facility if a particular region is too expansive. Again, there would be an additional cost the Department and ultimately the State to do this. Also, an increase in the number of treatment and supervision options in the community would give the courts additional and better disposition tools even for those youth whose cases remain in the adult system.*
- *All youth who need to be detained pretrial should be held in juvenile detention centers pre-trial. If this is not doable given current DJS populations, then all DJS*

regions should participate in JDAI to reduce their populations. The State can certainly design a phased implementation program to ensure that DJS has built its capacity to take these youth and is not immediately overwhelmed, but there must be a concentrated effort to do so with deadlines for each phase of implementation.

- *Public safety is not compromised by a proper pre-transfer detention process that provides comprehensive juvenile services at this point in the process. It remains important to monitor the system-wide time in custody pending transfer proceedings and this process allows for tracking and data collection. It is also important to make sure that there is sufficient capacity to accommodate this population. Extensive data must immediately be collected and this process implemented. No additional legislation is needed at this time to effectuate this process. Its implementation will also allow the Task Force the necessary time to collect the data for an overall evaluation to determine approximate numbers of offenders if the exclusionary offenses are adjusted.*

(4) the long-term fiscal impact of treating youth in the adult criminal system.

- *Removing juveniles from the adult criminal justice system should reduce long-term costs through a reduction in recidivism. Further, the already high costs associated with detaining juveniles are likely to increase as local jails and state prisons come into compliance with the Prison Rape Elimination Act.*
- *The current provisions in the law regarding waiver of jurisdiction appear to be working well and are generally consistent with other states. Informed judicial discretion should remain an integral part of the process. We should be always looking for ways to expand our ability to rehabilitate youthful offenders in both the juvenile and adult systems. Nevertheless, public safety and the safety of other juveniles must be of paramount consideration.*
- *Youth who are charged as adults and who are housed in adult facilities are much more likely to recidivate than adults. Any re-entry efforts available for inmates who leave an adult detention facility are not properly designed to assist youth in their transition back to the community. It is also expensive to keep youth sight and sound separated in adult facilities. It requires physical barriers to be placed in the facility as well as the possibility of additional staff. In most local facilities the correctional officer to inmate ratio is approximately 1:64. Most facilities house a very small number of youth, much less than 64 at any one time. The Officer to staff ratio is therefore much higher in the youth units in adult facilities and is much more expensive to manage and to operate.*