

THE PRICE OF POVERTY IN NORTH CAROLINA'S JUVENILE JUSTICE SYSTEM

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and
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(TYPE OR PRINT IN BLACK INK)
STATE OF NORTH CAROLINA In The General Court Of Justice
 District Court Division

NC-JOIN No. File No.
 Additional File No. (s)

County

Name And Address Of Juvenile

Date Attorney Appointed

**JUVENILE DELINQUENCY TRIAL LEVEL
 FEE APPLICATION
 ORDER FOR PAYMENT
 JUDGMENT AGAINST PARENT/GUARDIAN**
 G.S. Ch. 7A, Art. 36; G.S. Ch. 7B, Subch. II

*Complete name, address and SSN of responsible person(s) on Side Two.
NOTE: Use this form ONLY for juvenile delinquency cases at the trial level.
INSTRUCTIONS: Applicant completes and signs all applicable portions of Section I. If no judgment is entered, trial judge completes and signs Section II only. If judgment is entered, trial judge completes but does not sign Section II, then completes Section III and signs Section IV. Clerk mails private appointed counsel fee applications to: IDS Financial Services Office, Courier Box 56-10-50, Raleigh, NC. OR if courier is not available, mail to PO Box 2448, Raleigh, NC 27602.

I. APPLICATION

I, the undersigned assigned counsel public defender IDS contract counsel make application for payment and reimbursement of necessary expenses incurred, or for determination of value of services rendered for the indigent. I certify that this information is correct to the best of my knowledge.

ORIGINAL PROCEEDING AND DISPOSITION: Check ONE box in each of the following 3 columns. In columns 2 and 3, check the one box that describes the most recent resolution and disposition.

1. Original Charge (most serious offense) <input type="checkbox"/> Felony Offense Must indicate Felony Class: _____ Name of Offense: _____ <input type="checkbox"/> Misdemeanor Offense Must indicate Misd. Class: _____ Name of Offense: _____ <input type="checkbox"/> Motion For Review (Probation Viol.) <input type="checkbox"/> Motion For Review (Other) (in columns 2 and 3, check Other) <input type="checkbox"/> Status Review (in columns 2 and 3, check Other) <input type="checkbox"/> Detention Hearing (Limited Appear.) (in columns 2 and 3, check Other) <input type="checkbox"/> Drug Treatment Court (in columns 2 and 3, check Other) <input type="checkbox"/> Other: _____	2. Resolution Of Charges (most serious resolution) <input type="checkbox"/> Admission: Most Serious Original Charge Name of Offense: _____ <input type="checkbox"/> Adjudicatory Hearing: Responsible - Most Serious Original Charge Name of Offense: _____ <input type="checkbox"/> Adjudicatory Hearing: Responsible - Other Offense Name of Offense: _____ <input type="checkbox"/> Adjudicatory Hearing: Not Responsible <input type="checkbox"/> Probation Violation Found <input type="checkbox"/> Case Transferred To Superior Court (Waiver) <input type="checkbox"/> Case Transferred To Superior Court (Contested) <input type="checkbox"/> Dismissed With Leave <input type="checkbox"/> Dismissed Without Leave <input type="checkbox"/> Continued Adjudication (Admission) <input type="checkbox"/> None (Attorney Withdrew) <input type="checkbox"/> Other: _____	3. Disposition (most serious disposition) <input type="checkbox"/> Commitment To YDC <input type="checkbox"/> Out-Of-Home Placement <input type="checkbox"/> DSS Custody <input type="checkbox"/> Detention/Intermittent Confinement Number of days: _____ <input type="checkbox"/> Probation <input type="checkbox"/> None (Transferred To Superior Court) <input type="checkbox"/> None (Not Responsible/Dismissed) <input type="checkbox"/> None (Continued Adjudication) <input type="checkbox"/> None (No Disposition Entered) <input type="checkbox"/> None (Attorney Withdrew) <input type="checkbox"/> Other: _____
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Disposition Date _____ Time In Court _____ Time In Court Waiting _____ Time Out Of Court _____ Total Time Claimed This Fee _____
 Name Of Judge Setting Fee _____ Travel (no. of miles) _____ Copying (if in-house, no. of copies) _____ Other (attach receipts if > \$25) _____ Total Expenses \$ _____
NOTE: In assigned counsel cases, the applicant is always the individual attorney. If payment is to be made to individual applicant, write "same" under payee and give applicant's taxpayer ID No. (either Federal Employer ID No. or, if no Federal Employer ID No., SSN). If payment is to be made to applicant's firm, give firm name as payee and firm's taxpayer ID No.

COMPLETE FOR THIS FEE:
 Check here if judge required time sheet. See Note on Side Two. (Time must be reported in decimals, not minutes.)
 Name Of Applicant _____ Address _____
 Payee (see Note) _____
 Taxpayer ID No. (see Note) _____ Telephone No. _____ Date _____ Signature Of Applicant _____
 Email Address _____

II. ORDER TO PAY OR FIX VALUE OF SERVICES

Based on the Findings of Fact set out in Section III, the Court ORDERS that the "Total Amount" stated on Line 4 below be:

(Assigned Counsel) paid by the State of North Carolina to the payee above.
 (Public Defender/IDS Contractor) fixed as the value of legal services and other expenses of representation rendered by the applicant above.

1. Hours Approved By The Court	(Hours Approved x IDS Rate) = \$
2. Fees Allowed/Value Of Services Rendered	\$
3. Other Necessary Expenses Allowed By The Court	\$
4. TOTAL AMOUNT	\$

Date _____ Name Of Judge (type or print) _____ Signature Of Judge _____
 (Over)

Note To Judge: You do not need to sign here if you enter judgment and sign Section IV on the reverse.

AOC-J-411, Rev. 12/20
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North Carolina Poverty Research Fund
 Spring 2021

Acknowledgments

We are grateful for the support that allows us to continue to study poverty in North Carolina. The Law Offices of James Scott Farrin has generously enabled research on criminalizing poverty in the Tar Heel State. The Z. Smith Reynolds Foundation, the A.J. Fletcher Foundation, and the Triangle Community Foundation have also been generous in providing funding to explore and write about such matters—as have a number of very kind individual and foundation donors. We also thank the law students who assisted us with this project. In particular, Andrew Tabeling was a big help in getting this project off the ground and Michael Boyd kept us on task.

We are immensely inspired by the attorneys, judges, social workers, youth advocates and others who labor on behalf of young people in North Carolina’s juvenile justice system. We are also deeply indebted to the many individuals who generously took the time to share their thoughts and observations. This report could not have happened without them. Any errors are the authors alone.

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Introduction

We may need a juvenile court system, it *may* be appropriate in some situations, but not for the vast majority of kids who are doing dumb but developmentally normal things. The harm is immeasurable. It's bad for any kid but especially for poor kids who already have everything stacked against them.

—Child advocate

Numerous hard-fought and crucial changes to North Carolina's juvenile justice system are underway. The Juvenile Justice Reinvestment Act assures that many teenagers will not be charged as adults. Modest steps to reduce the school-to prison pipeline and address racial disparities have been initiated.¹ But worrisome challenges of poverty and race continue to pervade the juvenile system.

"Juvenile courts are filled with low-income families," we were told. Another interview participant indicated that poverty is "the foundational principle of what's going on" in the North Carolina juvenile justice system. The "vast majority of my clients," a third reported, "are at or below the poverty level ... families with means simply don't end up in the juvenile justice system."

Juvenile courts in North Carolina are statutorily authorized to assess a range of fees against parents. Courts can also order the youth to pay a fine or restitution. These court-levied costs and fees, though not as extensive as in the adult criminal justice system, can represent real hardship for families that are already struggling on other fronts. In our research, the most common fee reported is for court-appointed counsel, rendering the constitutional right to an attorney hollow. Youths tried as adults are on the hook for the wide array of costs and fees that we have examined elsewhere. For many poor or near poor Tar Heels, these additional expenses mean sacrificing other basic needs.

The imposition of fees in the juvenile system is not rare, though their prevalence varies notably from jurisdiction to jurisdiction. The relative informality, autonomy and diminished public visibility of juvenile courts creates a patchwork system, thwarting attempts to draw broad statewide conclusions. Our preliminary research, however, reveals that fees are sufficiently widespread to merit further investigation.

Indirect or "buried" costs are also a huge burden for poor families. Juvenile cases are time-consuming; the terms can be complicated, demanding and long-lasting. Constraints on time, transportation, housing and access to services hobble economically disadvantaged families' attempts to comply with diversion plans and court orders. Failure to comply leads to prolonged supervision, more restrictions, tougher penalties and

¹ Measures include support for School Justice Partnerships (SJPs), started by Judge Jay Corpening in New Hanover County, and Juvenile Crime Prevention Councils. Both bring together diverse stakeholders to reduce and prevent juvenile crime. In 2020, the North Carolina legislature passed the Second Chance Act, S.L. 2020-35, which makes it easier for some teenagers charged as adults to expunge a criminal record, among other things.

a spiral of negative consequences. Low-income families fall into the gap between what the court orders them to do and what they can feasibly accomplish. When they fail, their children pay the price.

The school to prison pipeline is the source of a large share—almost half—of juvenile complaints. School resource officers and disciplinary measures like suspension contribute to the pipeline. School based complaints and school discipline are notably characterized by large racial disparities. Black youth are overrepresented in juvenile processes nationally, constituting about 35% of cases but only 14% of the total youth population. The school to prison pipeline reflects and amplifies these inequities.

Becoming involved in the juvenile system carries a heavy price, economic and non-economic, for young people and their families. For those who fall short, the consequences are formidable: additional sanctions that undermine family wellbeing, push children deeper into the juvenile system, wound future prospects, and entrench economic hardship and racial disparity. The concept of equal justice under law is eroded.

The due process and equal protection clauses of the Fourteenth Amendment of the United States Constitution prohibit state and local governments from “punishing a person for his poverty.”² Justice Hugo Black wrote, more famously, nearly seven decades ago, that “There can be no equal justice where the kind of trial a man gets depends on the amount of money he has.”³ The operation of the juvenile justice system in North Carolina frequently poses significant tensions with these foundational principles. There should be no “poor man’s justice.” There should be no “poor kids’ justice” either.

Background on the Juvenile Justice System

The juvenile justice system’s guiding philosophy has changed drastically over the years. During the 1980s and 1990s, sensationalized reports of rising crime rates and teenaged “superpredators” fueled a “tough on crime” approach that emphasized locking youth up. More recently, robust advocacy efforts, a growing body of research on adolescent development and concerns about the fiscal and social costs of over-incarceration have generated support for rehabilitation and community-based programs.⁴

Nationally, juvenile court caseloads have dropped dramatically for nearly all offenses.⁵ By 2018, the total number of cases in juvenile court was less than half of what it was ten years earlier (Figure 1). That same year, the number of juveniles placed out of the home had fallen by 66% from its peak. Nonetheless, more than 31 million youth remained under the supervision of the juvenile justice system.⁶

² *Bearden v. Georgia*, 461 U.S. 660, 671 (1983).

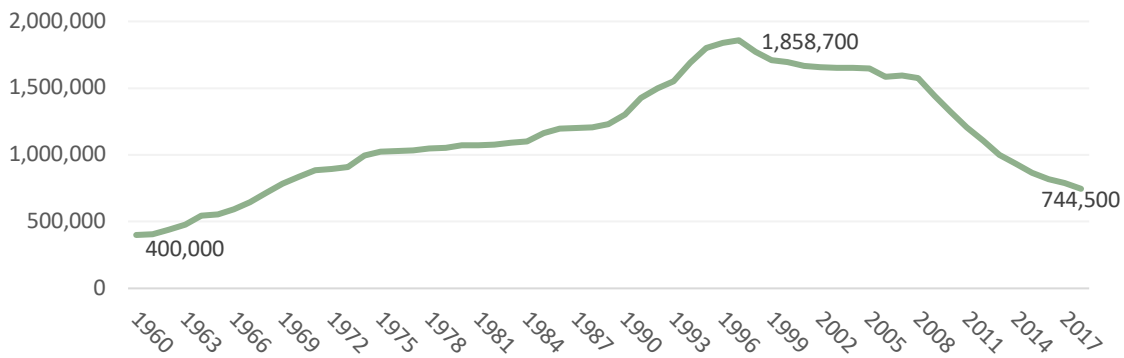
³ *Griffin v. Illinois*, 351 U.S. 12, 19 (1956).

⁴ Center for Law, Brain and Behavior, “Juvenile Justice and the Adolescent Brain”; Mendel, *No Place for Kids: The Case for Reducing Juvenile Incarceration*; Committee on Law and Justice, *Reforming Juvenile Justice: A Developmental Approach*.

⁵ Office of Juvenile Justice and Delinquency Prevention, “The Decline in Arrests of Juveniles Continued Through 2019.”

⁶ Hockenberry and Puzzanchera, *Juvenile Court Statistics*, 2018, 8.

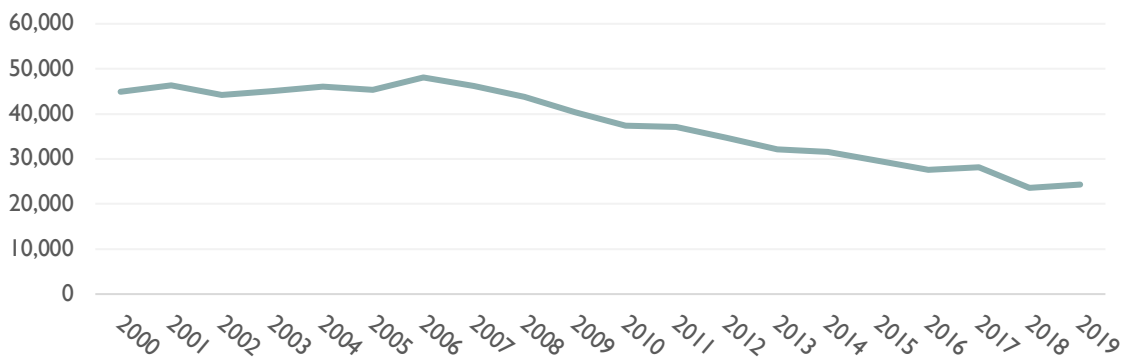
Figure 1. Total number of cases handled by juvenile courts, United States



Source: United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention

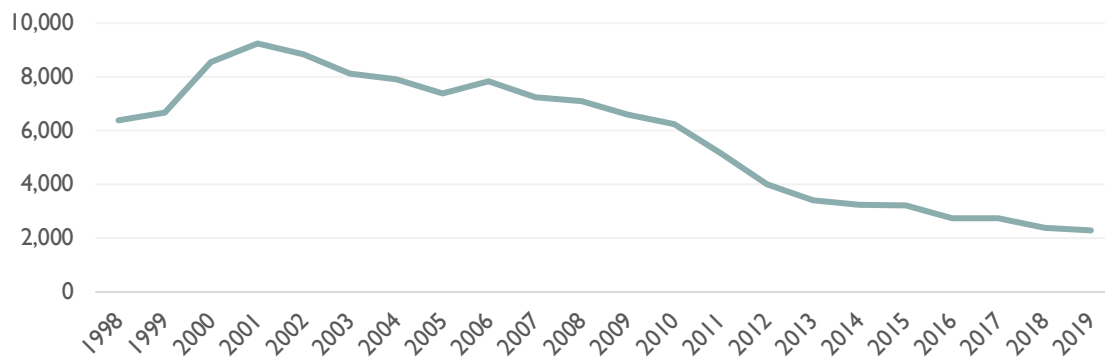
North Carolina marches in tandem with these national trends. The number of juvenile complaints has fallen rapidly; in 2019 it stood at about half the total for 2006 (Figure 2). In ten years, the number of cases in juvenile court dropped by 73%.⁷ The number of young people admitted to a juvenile detention facility in 2019 was less than a quarter of what it was at its height in 2001 (Figure 3).

Figure 2. Number of juvenile complaints, North Carolina



Source: North Carolina Department of Public Safety

Figure 3. Number of admissions to a juvenile detention facility, North Carolina

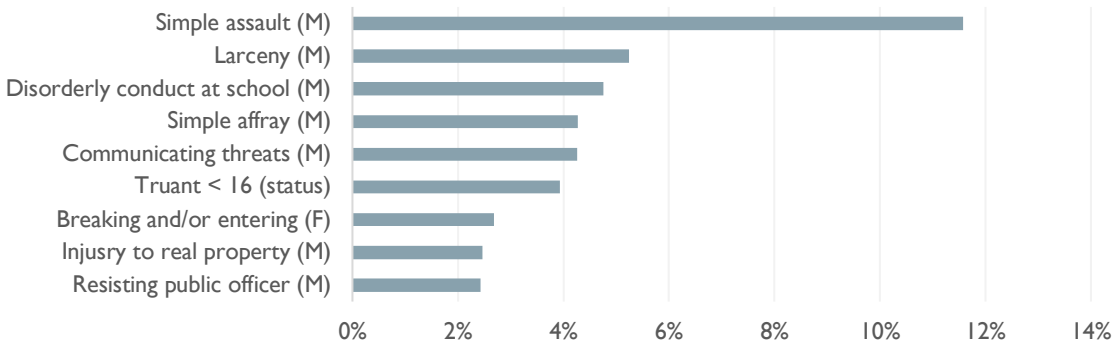


Source: North Carolina Department of Public Safety

⁷ In 1999, 26,790 petitions were filed with juvenile courts in North Carolina. In 2018, it was 7,244. See Hockenberry, Smith, and Kang, “Easy Access to State and County Juvenile Court Case Counts.”

In 2019, 65.5% of all delinquency complaints in North Carolina involved a minor misdemeanor.⁸ Simple assault, larceny and disorderly conduct at school—all misdemeanors—were the most common juvenile offenses (Figure 4). Within the state, the delinquency rate ranges dramatically from county to county. In 2019, Tyrrell County claimed the highest rate (64 out of every 1000 young people aged 6 to 15); Gates County had the lowest (2.2 out of every 1000). (See Appendix A for delinquency rates for all counties in North Carolina.)

Figure 4. Most common juvenile offenses as percentage of total number of complaints in North Carolina, 2019



Source: North Carolina Department of Public Safety

North Carolina's Juvenile Justice System in a Nutshell

In North Carolina, juvenile courts have jurisdiction over youth 6 to 17 years old who are alleged to be *delinquent* or *undisciplined*. A young person is delinquent if they engage in conduct that would be a crime or infraction if committed by an adult. An undisciplined youth is one who commits an age-related offense, such as truancy or running away from home.⁹

A juvenile case starts when a *complaint* is filed against a young person. Anyone—school personnel, law enforcement, private individuals—can file a complaint. A juvenile court counselor investigates the claims outlined in the complaint. If the complaint fails to state a case, the court counselor closes the file. If the

complaint is legally sufficient, the court counselor decides whether to resolve it (take no action); divert it; or send it to court.¹⁰

If the case is diverted, a young person will stay out of court as long as he or she sticks to the diversion plan. If the court counselor sends the case to court, a judge determines whether the allegations are proven beyond a reasonable doubt. A young person might *admit* to the offense (like pleading guilty) or they might be *adjudicated delinquent* (like a criminal conviction). The judge then issues a *disposition* (like a sentence), which describes the terms the youth must abide by.

⁸ North Carolina Department of Public Safety, “2019 County Databook,” <https://www.ncdps.gov/documents/2019-county-databook>.

⁹ Undisciplined youth “crossover into delinquency court at high percentages.” Birkhead, “Delinquent by Reason of Poverty,” 71. Poverty is often at the root of status offenses. As one attorney said, “If a kid doesn’t show up in school, the reasons are often tied to poverty. They don’t have clean clothes, transportation, there’s trauma, they’re looking after other kids.”

¹⁰ Court counselors don’t always have the discretion to make this decision. By statute, certain offenses are non-divertible. See N.C. General Statutes § 7B-1701.

Dispositions are classified into three levels based on the severity of the offense and the youth's delinquency history; at each level, courts can select from a range of dispositional alternatives.¹¹

State law requires courts to select a disposition based on precepts of public safety and the best interests of the young person.¹² Community service, teen court, restitution, or a curfew are some of the alternatives available for the lowest level disposition. More serious or repeat offenses might result in placement in a residential facility or wilderness program, house arrest, or commitment to a secure facility.

Youth can be held in secure or nonsecure custody before going to court or after adjudication. Youth who are determined to be a danger to themselves or others, fail to appear at a hearing, violate terms of supervision or probation, or meet other conditions laid out by statute can be detained in a *juvenile detention center* (a locked facility, like a jail, intended for shorter-term stays).¹³ A small number of young people every year are committed to a *Youth Development Center* (YDC), the most restrictive long-term custody available. In 2019, 342 youths were committed to a YDC; the average length of stay for youth who left the facility that year was 411 days.¹⁴

The Juvenile System and Poverty

Poor kids populate the juvenile justice system. “Juvenile courts are filled with low-income families,” stated one attorney simply.¹⁵ “Poverty is the foundational principle of what’s going on” in the juvenile courts, asserted another. A defense attorney who has worked with urban and rural youth pointed out that the economic backgrounds of both are the same. They are “in poverty. I don’t see rich kids. It just doesn’t happen.” “The vast majority of my clients,” reported another attorney, “are at or below the poverty level. Families with means simply don’t end up in the juvenile court system for the most part.”

Children are among the poorest North Carolinians. One in five Tar Heels below the age of 18, and about one in three Black and Latinx youth, are poor. Poverty undergirds many of the common risk factors for delinquency. It produces and shapes family structure, communities marked by over-policing and disinvestment, under-resourced schools, and peers engaged in risky or criminal behavior. A youth advocate we interviewed noted that for impoverished youth, the risks of delinquency “start early. They depend on the neighborhood you live in, the school you attend.”

Material hardship also has a hand in trauma and victimization, difficulties in school and untreated mental health and substance abuse issues—all experiences associated with juvenile justice involvement.¹⁶ A risk assessment of North Carolina youth at disposition found that 59% had serious problems in school, 75% had

¹¹ N.C. General Statutes § 7B-2508 (defines disposition levels) and § 7B-2506 (describes dispositional alternatives).

¹² N.C. General Statutes § 7B-2501(c).

¹³ N.C. General Statutes § 7B-1903.

¹⁴ Hooks, Moose, and Lassiter, *Youth Development Center Annual Report*, 4, 25.

¹⁵ All interviews were confidential. Quotations from research participants are excerpted from interviews conducted by and on file with the N.C. Poverty Research Fund.

¹⁶ A very high percentage of youth in the juvenile system report adverse childhood experiences such as family violence or household member incarceration. See Baglivio and Epps, “The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders,” 7. See also Illinois ACEs Response Collaborative and Health & Medicine Policy Research Group, *Justice Brief: ACEs and the Juvenile and Criminal Justice Systems*, 1.

mental health needs and almost 40% needed substance abuse treatment.¹⁷ Other studies suggest that 50% to 70% of youthful offenders have a diagnosable behavioral health disorder and many have more than one.¹⁸

To better understand how poverty is woven into the fabric of the juvenile justice system in North Carolina, we conducted numerous interviews with attorneys, social workers, scholars, youth advocates and other experts. We also sent a survey to select recipients across the state in order to reach beyond our initial contacts. While this is hardly an exhaustive study, the observations and stories reported to us demonstrated, in powerful and vivid ways, the central role of poverty in shaping outcomes for youth in the juvenile system.

Court-Imposed Fees

Juvenile courts in North Carolina are statutorily authorized to assess a range of fees against parents, including fees for a court-appointed attorney, community service, evaluation and treatment, and probation. (For convenience, we refer to all parents, guardians and other adult caretakers as “parents.”) Courts can also order the youth to pay a fine or restitution.¹⁹ For the millions of poor or near-poor North Carolinian families, the imposition of these additional expenses means sacrificing a basic need.²⁰ Across large swaths of the state, housing and transportation costs alone comprise almost all of the income for single parent households (Appendix B). When 16% of American adults are unable to pay all of their current month’s bills in full—and almost 40% lack \$400 to cover an emergency—even a few hundred dollars of court debt can destroy the fragile balancing act of household budgeting.²¹

Our research, while preliminary, shows that fees are not rare. Attorney’s fees were the most common type of fee mentioned in our interviews and survey. A number of the experts we interviewed confirmed that families were charged attorney’s fees, while also noting stark geographic differences. A seasoned juvenile defense attorney who has visited courtrooms across the state observed, “It’s different county by county, and judge by judge.” “Attorney’s fees are all over the place,” noted another attorney. “Some places don’t [assess fees], some places do all the time.” An expert who studies the juvenile system in North Carolina reported “tremendous variation” in the way that attorney’s fees are assessed. In two of the three counties where she has observed juvenile court, attorney’s fees “don’t happen.” In the third, families “are routinely assessed fees” without the court inquiring into their ability to pay.

¹⁷ North Carolina Department of Juvenile Justice and Delinquency Prevention, *Creating Success for Youth 2004 Annual Report*, 13.

¹⁸ Schubert and Mulvey, “Behavioral Health Problems, Treatment, and Outcomes in Serious Youthful Offenders,” 3. See also Suits, Dunn, and Sabree, *Just Learning: The Imperative to Transform Juvenile Justice Systems Into Effective Educational Systems*, 14; Shufelt and Coccozza, *Youth with Mental Health Disorders in the Juvenile Justice System: Results from a Multi-State Prevalence Study*, 2.

¹⁹ See N.C. General Statutes § 7B-2702(a) (evaluation and treatment fee); § 7B-2002 and § 7A-450.1 (attorney’s fee); § 7B-2704(2) (probation and residential facility fee); § 7B-2506(4), (22) (restitution); § 7B-2506(5) (fine).

²⁰ Over 3.2 million North Carolinians have an income that is less than 200% of the poverty level, a standard metric for counting poor and near poor individuals. 2019 American Community Survey 1-Year Estimate.

²¹ Board of Governors of the Federal Reserve System, Consumer and Community Research Section of the Division of Consumer and Community Affairs, *Report on the Economic Well-Being of U.S. Households in 2019, Featuring Supplemental Data from April 2020, May 2020*, 9.

Almost half (45%) of individuals who participated in our survey were aware of families who had been assessed attorney's fees, and half of those reported that attorney's fees were always or frequently assessed. Survey responses also highlighted geographic differences, although the survey question didn't ask for this information. For example, two respondents commented that attorney's fees were "not done" and "rarely/never" happened in Wake County. One added however that in "other jurisdictions," attorney's fees were assessed "almost always." Since most of the individuals we consulted are located in or near the state's metro areas, the use of attorney's fees in other parts of the state should be explored in more detail.

Attorneys who want to shield families from the burden of attorney's fees sometimes under-report their hours or decline to submit their applications for payment. An attorney commented that as a result,

it's hard to know, if fees aren't getting imposed, if it's because of the judge or the attorney. In the urban counties—Wake, Mecklenburg—judges don't tend to impose them. In smaller, more rural counties, my sense is the attorneys aren't submitting them for reimbursement. But it all depends.

By essentially taking cases for free or at a reduced rate, these attorneys are absorbing the sting of fees on behalf of their clients. How often and where this occurs is an open question.

One survey respondent stated that electronic monitoring fees are also assessed and are "common when the equipment is damaged or does not work." We also heard in conversation that fees may be assessed for electronic monitoring, either as a monthly fee or as a fee for replacing damaged or destroyed ankle bracelets. Our experts identified restitution as another type of monetary obligation that youth frequently must pay in delinquency cases. Unlike fees, restitution is punitive, not administrative. Youth are often given the opportunity to pay off restitution through community service, but as we discuss below, poverty can intervene before the young person is able to completely discharge this debt, creating larger problems down the road.

Court Costs, Fines and Fees Imposed on Youth Charged as Adults

Prior to December 2019, 16- and 17-year-olds in North Carolina were automatically prosecuted as adults.²² A young person who pled guilty or was convicted was assessed the same legal fines, fees and court costs as any other adult criminal defendant.

Studies suggest that thousands of 16- and 17-year-olds in North Carolina entered the criminal system every year.²³ In 2017-2018, almost 20,000 felony and non-motor vehicle misdemeanor charges were filed against 16- and 17-year-olds in North Carolina; in the previous year, that number was over 23,000.²⁴ The North

²² The Juvenile Justice Reinvestment Act, passed as part of the state budget in 2017, raised the age of adult criminal responsibility from 16 to 18, beginning with offenses committed on or after December 1, 2019. North Carolina was the last state in the country to treat 16- and 17-year-olds as adults in criminal court.

²³ Langberg, *Putting Justice in North Carolina's Juvenile Justice System*, October 2017, 3; North Carolina Sentencing and Policy Advisory Commission, *Report on Study of Youthful Offenders Pursuant to Session Law 2006-248, Sections 34.1 and 34.2*, 10.

²⁴ Tamer, *Criminal Charges for 16- and 17-Year-Olds FY 2017*; North Carolina Administrative Office of the Courts, Research and Planning Division, *Criminal Charges for 16- and 17-Year-Olds FY 2016*.

Carolina Department of Public Safety reported that in 2020, 4,300 16- and 17-year-olds were kept out of the adult system due to the age change.²⁵ Certainly, the total number of 16- and 17-year-olds processed through the adult system, aggregated year after year, is considerable.

Going forward, some young people will continue to be prosecuted as adults in North Carolina, including those charged with certain motor vehicle offenses or Class A-G felonies. A young person can end up in criminal court through other circumstances as well, whether through statutory mandate or judicial discretion.²⁶ These youth will be subject to the full panoply of court costs, fines and fees faced by all adult criminal defendants.

These monetary obligations remain a millstone around the necks of justice-involved individuals for years.²⁷ As we describe elsewhere, these court costs, fines and fees often lead to a spiral of debt and punishment that traps justice-involved individuals in poverty.²⁸ Most people who are unable to pay right away, “never do so.”²⁹ Additionally, the experience of adult prosecution can leave profound psychological and social scars that haunt youths’ transition into adulthood. Juveniles tried as adults do not receive the more carefully crafted attention from programs and services offered by the juvenile system. The harsher, more punitive adult environment is especially injurious to adolescents who are still developing identities, relationships and competencies.³⁰ Youth incarcerated with adults are at increased risk of sexual or physical victimization.³¹ Youth prosecuted as adults also recidivate at higher rates than those who remain in the juvenile system, which in turn leads to more court debt and diminished odds of overcoming it.³² Youth with a criminal record and court debt are doubly handicapped before they even reach the age of maturity.

Other Poverty Penalties Faced by Low-Income Families

In addition to court-ordered fees and costs, involvement in the juvenile system imposes more indirect and “buried” costs. Constrained in their ability to meet its demands, poor parents and children struggle, come up short, and become more entangled in the juvenile system. In contrast, parents with means can do whatever it takes to limit their child’s exposure to the juvenile system, get the support their child needs and exit the system quickly and smoothly.

²⁵ Bridges, “How ‘Raise the Age’ Helped Thousands of North Carolina Teens This Year.”

²⁶ Greene, “No More Minors in Jails.”

²⁷ Crozier, Garrett, and Maher, *The Explosion of Unpaid Criminal Fines and Fees in North Carolina*, 9.

²⁸ See Hunt and Nichol, *Court Fines and Fees: Criminalizing Poverty In North Carolina*.

²⁹ Crozier, Garrett, and Maher, *The Explosion of Unpaid Criminal Fines and Fees in North Carolina*, 10.

³⁰ Scialabba, “Should Juveniles Be Charged as Adults in the Criminal Justice System?”

³¹ Birkhead, “North Carolina, Juvenile Court Jurisdiction, and the Resistance to Reform,” 1459.

³² Birkhead, 1460–61. Huffaker, “In Many States, Black Juveniles End Up in Adult Court in High Numbers”; McDonough, “Report: Recidivism Higher for Youth Offenders Tried as Adults.”

Time Constraints and Lack of Transportation

“Transportation and time weigh heavily on everyone, but weigh more heavily on poor people,” said a public defender. Parents wrestle with the strictures of low-wage work: fluctuating or odd work hours, on-demand schedules, and limited or non-existent leave policies. Other family members may require attention as well. The problem for single parents is even more acute. As one interviewee put it, “mom can’t meet with a court counselor if there’s no childcare.”

Parents are an intrinsic part of a delinquency case. They accompany their child to meetings with the court counselor and to court proceedings. If a hearing is continued, they have to accommodate rescheduling. “Court appearances are continued all the time,” said one attorney. “Parents lose significant time at work or lose their jobs altogether.” Once at the courthouse, parents and children may have to wait for hours before their case is called.

“I mostly saw black or brown kids, single moms/parents. They struggled to get time off, then got chewed out because they were late for court.”

Active participants in their child’s case, parents have to provide their child with transportation, supervision or other forms of assistance and guidance.³³ There may be meetings with social workers, therapists, teachers or school administrators. Juvenile courts have the authority to compel parents to attend parental responsibility classes or undergo evaluation or treatment separate from the child.³⁴ Noted a youth advocate, courts can require parents to undertake a range of responsibilities, but they “vary in terms of thoughtfulness about [the parents’] ability to follow through.”

“Court-involved kids are more likely to be special ed. The parents already have meeting after meeting, dealing with lots of demands already. They have meetings with schools, meetings with court.”

We asked survey respondents to estimate the total number of out of home obligations parents undertook in the “typical” juvenile case. Among the answers: two respondents estimated 20-30; another reported “six-ish” before adjudication, “dozens” if placed on probation. One respondent replied, “once a month to 4-6 times a week,” depending on the severity of the case. All survey respondents identified the time commitment required by a delinquency case as a serious hardship for poor families, and almost all (91%) answered that parents were unable to get time off from work. “Parents often literally can’t take time that kids need, and the system demands,” an attorney told us.

Time spent in the juvenile system is not always time productively spent. Parents are called on to navigate multiple complex systems. Trying to square the expectations of the court with the confounding requirements of Medicaid-funded mental health services, for example, can be its own part-time job. By way of illustration, an expert we interviewed described how youth who have been ordered to receive more intensive mental health therapies have to “fail upward” by not responding to less effective intervening treatment first. This “means a lot of time and effort spent on services that are probably not what the kid needs,” she said. Another interviewee recounted the story of young person who stole a phone. The judge ordered him to attend drug treatment, not because of any history of substance abuse, but because that was one of the few

³³ N.C. General Statutes § 7B-2703.

³⁴ N.C. General Statutes § 7B-2702(c).

community-based programs available locally. Yet another commented on the frequent “mismatch between the available services and what the kid needs.”

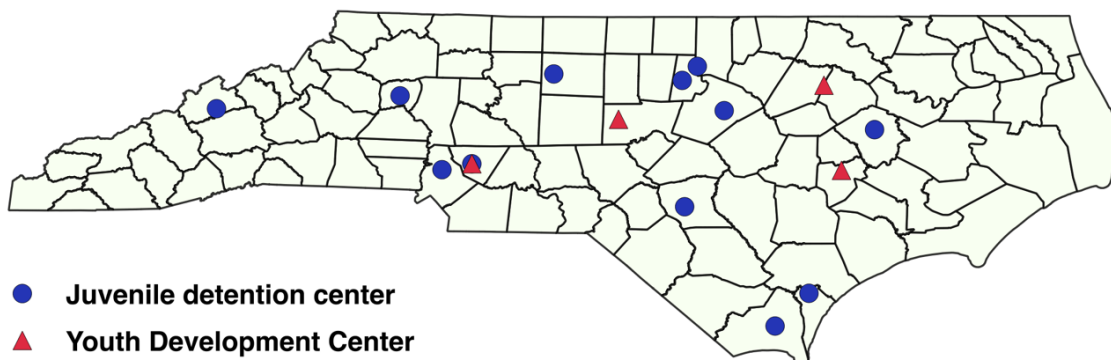
As anyone without a car knows, time and transportation are closely linked. Access to reliable transportation is critical to success in the juvenile system, but almost 235,000 households in North Carolina don't have a vehicle.³⁵ Many other households own a car that has to be shared among family members or that can't be driven safely. The cost of car ownership—repairs, insurance, registration, inspection and gas—may render a vehicle unusable. Many drivers have suspended licenses; one in seven adults in North Carolina have a driver's license that has been revoked for non-driving reasons.³⁶

“With a ... middle class family, there's a house, car, mom and dad. Parents can take time off from work, go to doctor appointments or take other measures. For garden variety misdemeanors, community service is the answer, but that might mean alcohol and drug assessment, classes, counseling.”

Nearly everyone we interviewed was quick to point out the pivotal role of transportation in delinquency cases. “The transportation issue has an impact at every stage,” said one interviewee. “Sometimes courts are responsive to this issue, sometimes not.” For families without readily available and affordable transportation, every court date and appointment is a logistical dilemma. Over a third of our survey participants estimated that their most recent or “typical” client had to travel more than 10 miles from home to the courthouse (roughly the distance from Chapel Hill to Durham). Most of our survey respondents are located in densely populated urban areas served by public transportation. For families in rural areas, where people and services are widely dispersed, the courthouse or therapist's office can be impossibly distant.

Transportation is a critical issue for families with a child in secure custody. There are twelve juvenile detention centers and five youth development centers (YDCs) in North Carolina, most of which are located near the state's urban centers (Map 1). To see a child or meet with the court counselor or therapist on-site, a family has to find a way to make what could be a very long trip. “It's hard for parent to drive three hours one way for a one-hour meeting and lose a day of work or pay childcare,” stated a youth advocate. The trip presents “lots of poverty-related obstacles,” weakening family connections and support.

Map 1. Juvenile detention and YDC locations in North Carolina



Source: North Carolina Department of Public Safety. Map created by the North Carolina Poverty Research Fund using QGIS.

³⁵ 2019 American Community Survey 1-Year Estimate.

³⁶ Garrett, Crozier, and Modjadidi, “One in Seven NC Drivers Has Had Their License Suspended. Many of Them Don't Even Know It.”

Housing Instability

Housing instability, which affects a large share of poor families, can upend a juvenile case. For 43% of renter households in North Carolina, home is unaffordable; that share increases to 70% for renter households making less than \$50,000.³⁷ Poor families are more likely to move often and unexpectedly, double up with friends or family, or live in inadequate or hazardous housing. They might stay in a car, motel or shelter. An eviction has been filed against at least one in ten renter households in North Carolina every year since 2001.³⁸ Poverty and unreliable housing put common amenities like phone service or the internet out of reach. Almost 750,000 households in North Carolina have only a smart phone or no computing devices at all. Nearly 600,000 don't have an internet subscription.³⁹ "If they don't have lights," observed a defense attorney, "they may not have phone."

Housing instability creates problems for youth in the juvenile system right away. As part of their assessment of a juvenile complaint, court counselors are supposed to interview the youth and their parents, in person "if practicable."⁴⁰ A court counselor who is unable to reach the parents within the statutorily allotted time is authorized to send the complaint to juvenile court, even if the case is eligible for diversion.

Once the youth is under the jurisdiction of the court, housing instability continues to create problems. Courts must be able to contact the parents throughout the life of a case. "If the court or the counselor can't find the parent, if the phone is a wrong number or disconnected, if the family moved or they were evicted," explained an expert we interviewed, "it creates problems, bottlenecks, delays." "Parents move around," said another. "They get evicted, they're staying with family, friends. They don't always get served. The case can't advance without parents' involvement. This impacts the longevity of a case."

The absence of stable or adequate housing can lead to youth being held in secure custody. "If home isn't safe, or it's the place where the offense occurred, then there's not a great solution for where to go, so kids are detained," said one interviewee. Homelessness presents a similar conundrum. A public defender told us of a client who "spent weeks in secure custody because there was nowhere to release him. His mom lives in South Carolina and both are homeless—the court didn't have a place to put him. So he was in custody for five weeks." An attorney described how homelessness prevents a client from meeting the terms of his disposition. "Sometimes he's late for school. Sometimes he can't make it to therapy. The problem is his lack of housing, not a behavioral challenge." In essence, a family's inability to afford a place to live is a strike against the child. Stated one youth advocate,

At the core, a lot of times the reason the juvenile isn't released [from detention] is due to poverty—the parents don't have a stable home. The judge might cite the statute, the verbiage in court makes it sound like that's not the reason, but if you look at the factors, it is. Poverty is really ignored in a lot of realms.

³⁷ 2019 American Community Survey 1-Year Estimate. Housing costs that are 30% or more of a household's income are considered unaffordable.

³⁸ Eviction Lab, "Eviction Filing Rate for North Carolina," <https://evictionlab.org/map/>.

³⁹ 2019 American Community Survey 1-Year Estimate.

⁴⁰ N.C. General Statutes § 7B-1702.

Barriers to Services

“Where poverty has greatest impact: access to services. They can change a kid’s path especially when talking about the bulk of offenses. We have a juvenile system because we want to focus on rehabilitation and treatment. This is unique to juvenile courts. A family’s capacity to mobilize resources and jump through hoops is driven by wealth.”

The juvenile system, with its emphasis on meeting the needs of the child, is services intensive. Children whose parents can organize and access services through private means often avoid the juvenile system entirely. By quickly securing support for the child, parents demonstrate to the court counselor that they can manage without court involvement. As one interviewee said, more affluent parents

can go to the intake meeting and say, “Here are the treatments, counseling, etc. we’re doing.” From intake, to probation, to supervision—a family with means can do whatever it takes to make things right. They’ll do what they have to do to fix the problem. Something as simple as the ability to pay for someone to watch the kid—supervision is a big deal and often a term that families must abide by—they can hire a nanny. A poorer family has to turn to grandparents, friends, extended family.

Even if the case goes to court, parents who have lined up an action plan can obtain a more favorable result. A former juvenile defender recollected, “If I can show that the kid and the parents are taking the situation seriously, that might then get them a conditional charge, or get the charges dismissed, or work out a lesser plea.” One expert put it this way: “The perception of the family means a lot. Are the parents responsible? Do they have the resources they need? Are they able to supervise the child?” If so, the court is more likely to conclude that the young person is better off exclusively in their care. Parents without the resources to corral services in the early stages of a case are at a deep disadvantage.

Treatments ordered as part of a disposition are another source of inequality in the juvenile system. While adjudicated youth are supposed to receive help regardless of their financial status, in reality program complexity and red tape mean availability is not ensured. Medicaid can require a co-pay, especially for prescriptions. There may be few or no providers nearby. Lack of transportation plays a role here. In some places, “the outpatient waitlists are super long. They have no capacity to get kids in for a visit.” Another attorney asserted,

There’s a lack of available treatment for serious psychological problems. There are no beds, especially if they’re Medicaid funded. You can get money from the court for treatment but it’s hard to do and funds are limited. There’s a shocking lack of facilities for kids, especially those who need a closed-door facility and intensive psychological treatment.

If court-ordered treatments aren’t accessible, the case is protracted—to the detriment of the young person. The longer youth remain under the supervision of the court, the more ensnared they become. “Often kids ... jump to a higher [dispositional] level because they can’t access private services. YDCs and out of home placement are all low-income kids,” stated a youth advocate.

“I’ve never had a family who was grateful to have been involved in juvenile system. Even though it’s not unusual for the family to be the ones to initiate—‘we’ll call and get help.’”

Troublingly, our interviewees described how parents and schools turn to the juvenile justice system as a means to obtain services for youth. An attorney told us about an adopted child with “significant disabilities, past trauma, OCD.” After he “stole paper out of the recycling bin and pencils out of the teacher’s desk,” he was referred to juvenile court because the school “wanted to get him help.” “But if you’re wealthy,” the attorney observed tartly, this is “not going to happen.”

Juvenile courts can also see themselves as a portal to services for indigent youth.⁴¹ Families, particularly kids, pay a steep price for this approach. One expert stated,

A lot of judges see court as a means to social services, so they will adjudicate kids as delinquent in order to get them those services. It’s an action based on good motives, but it isn’t always realized that way. Now the kid is labeled delinquent; the services may not be beneficial. The parents or the child may not be able to take advantage of them.

The glaring structural inequity of this arrangement was raised by another interviewee. “Why aren’t there less punitive and stigmatizing ways for kids to get treatment?” she asked. “Isn’t there a way to serve their needs ahead of time?”

The ability to select and retain an attorney of their choice is another service available to well-off parents. “Early advocacy is best,” observed an interviewee, but because court-appointed counsel isn’t available at intake, “this isn’t an option for everybody.” The advice of an experienced attorney at this decisive juncture can steer the child clear of potential pitfalls and toward early resolution of the case. Left to their own devices, unrepresented parents can founder. They

don’t have the knowledge or training to raise issues for the [court] counselor. The counselor is basically trying to determine if the court needs to intervene. If the parent can show they’ve lined up mentors, mental health, they consulted with a lawyer, if they can convince counselor “we’ve got this,” the case is more likely to stay out of court. For parents who can’t line up these resources or who don’t know what to do, they can be blindsided by the intake.

All children in delinquency cases in North Carolina are entitled to a court-appointed attorney. How these legal services are delivered varies. In some counties, public defenders represent indigent youth. In others, courts appoint counsel from a list of private attorneys. As a former judge noted delicately, the “excellence” of court-appointed counsel varies geographically. “For poor kids, the results of their case depend on the county,” she stated. Another expert pointed out that “In the smaller counties, there are few full-time juvenile cases for private attorneys.” Because they “only do juvenile work occasionally,” it “creates problems in terms of the quality of representation.”

Juvenile court has long been viewed as a training ground for new and inexperienced lawyers. A public defender explained that some attorneys see juvenile court as a “good way to cut your teeth in a situation where the stakes aren’t as high.” For indigent youth, the caliber of their representation rests on chance and geography. A former juvenile defender observed,

⁴¹ See Birkhead, “Delinquent by Reason of Poverty,” 69–70.

Juvenile defense work is often considered a place where there aren't any 'real' consequences, where new lawyers can get trained. Or a lawyer will take juvenile work occasionally. As a result, they're unfamiliar with the context and distinctiveness of juvenile court."

The Penalizing Consequences of Poverty

Penalties Faced by Parents

One in seven households in North Carolina, and one in five Black and Latinx households, have zero or negative net worth; they have no savings to draw on when faced with an extra expense.⁴² Their financial precariousness compromises their ability to comply with court orders. They may not have the means to pay direct costs such as attorney's fees. Or they may be out of compliance for reasons related to their economic circumstances. Either way, a parent's failure to abide by court orders can lead to penalties that exacerbate economic insecurity.

A parent's noncompliance with any order issued by the court in a delinquency case is grounds for contempt.⁴³ State law expressly provides that a parent who fails to pay fees for a court-appointed attorney "may be found in civil contempt."⁴⁴ Civil contempt, which is intended to coerce compliance, can entail a substantial period of imprisonment. A court can order that a parent be imprisoned for up to 90 days. If the violation is ongoing, the period of imprisonment can be renewed for additional periods of up to 90 days, for a total of up to twelve months.⁴⁵ Unpaid attorney's fees can also be filed as a civil judgment, which is a debt that the parent owes to the state.⁴⁶ The judgment can accrue interest and the state can garnish state income tax refunds to apply to the debt.

"There's no situation in which the court system ameliorates poverty. It only ever worsens it."

Parents who are unable to comply with other court orders (failing to appear in court, for example) risk criminal contempt. Criminal contempt is punishable with a fine up to \$500 and/or imprisonment up to 30 days.⁴⁷ Court costs and fees may also be assessed.⁴⁸ Both monetary obligations and imprisonment undermine the rehabilitative goals of the juvenile system and the financial stability of the family. Incarceration in particular has been linked to a host of harms, including job loss, family disintegration, and educational and psychological injury to children.⁴⁹

⁴² Prosperity Now, "Prosperity Now Scorecard: Data by Location." North Carolina, "Households with Zero Net Worth," <https://scorecard.prosperitynow.org/data-by-location>.

⁴³ N.C. General Statutes § 7B-2706 (parents' noncompliance in juvenile case punishable by criminal or civil contempt).

⁴⁴ N.C. General Statutes § 7B-2002.

⁴⁵ N.C. General Statutes § 5A-21(b2).

⁴⁶ N.C. General Statutes § 7A-455(b).

⁴⁷ N.C. General Statutes § 5A-12.

⁴⁸ Crowell, *Contempt*, 13.

⁴⁹ La Vigne, Davies, and Brazzell, *Broken Bonds: Understanding and Addressing the Needs of Children with Incarcerated Parents*; Annie E. Casey Foundation, *A Shared Sentence: The Devastating Toll of Parental Incarceration on Kids, Families and Communities*.

Missed Opportunities for Diversion

For youth who qualify, diversion offers a gateway to services and an exit out of the juvenile system. But the door to diversion isn't always open for poor kids. Simply missing the initial intake meeting with the court counselor may permanently shut it. As discussed above, parents may not know about or be able to attend the intake meeting. If parents aren't present at this crucial moment, the court counselor may send the case to court. To this point, one attorney stated,

On the front end, absolutely a big way kids end up in court is—if not a higher-level offense, where this happens automatically—the first step is intake with court counselor. If the parent doesn't show up, for whatever reason, then the case is approved for court.

Even a diverted case might still end up in court if the young person can't follow the terms of the diversion plan. Poverty produces myriad hurdles, from upfront costs to latent issues like transportation and parental availability. "Take a case that should be diverted," an attorney said. "All the kid needs to do is complete community service. But if they don't make it, they don't receive the benefit of that diversion and start down the road to increased court involvement." A legal aid attorney echoed this observation. "In Wake [County], school officials and SROs [school resource officers] can refer a kid directly to teen court, which is good. But it's in downtown Raleigh. Wake is big. If the family lives in Wendell, getting downtown is not an easy thing." As a result, the young person "can't access pre-court diversions because of transportation." Another attorney relayed a story that dramatized how kids lose out when the juvenile system insists on a level of parental involvement that poor parents can't deliver.

The court counselor couldn't get ahold of mom. Mom worked all the time, she couldn't come in. The office is only open during business hours and she couldn't do it. The kid could probably have gone into a diversion program, but now it's too late, it's in the court system. Mom told her son, "Just plead guilty so we're done here. I can't take more time to come back." So the kid pleaded guilty because he didn't want to create more hardship for mom.

Youth who successfully complete pre-court diversion are spared the burden of going to court and subsequent adjudication. They also avoid the collateral consequences associated with court involvement. Youth who have been referred to juvenile court can be suspended or expelled from school.⁵⁰ They may also—erroneously—be denied school enrollment.⁵¹ Many colleges and universities ask about delinquency on their applications.⁵² Sometimes jobseekers disclose information about a juvenile record on employment applications due to misunderstanding or vaguely worded questions about "arrests." A driver's license,

⁵⁰ Office of the Juvenile Defender, "Juvenile Adjudications, Selected Collateral Consequences, and Expungement," 1. See also Langberg, *Putting Justice in North Carolina's Juvenile Justice System*, 11.

⁵¹ N.C. General Statute § 115C-366 permits discretionary denial of school admission for felony conviction in *adult* criminal court only. Nonetheless, schools in North Carolina have wrongly denied admission to adjudicated youth.

⁵² For example, The Common Application asks whether the applicant has been adjudicated guilty or convicted of a misdemeanor or felony. See Jaschik, "Still Asking About Crime and Discipline."

housing and military service can all be denied to a young person who has been adjudicated delinquent. Adjudication can imperil immigration status and can resurface in future interactions with the legal system.⁵³

Involvement in the juvenile system can also cause extensive harm in the long run. Youth who are arrested and processed in the juvenile system are more likely to be re-arrested and reoffend than youth who are diverted.⁵⁴ An arrest during high school doubles the odds that the student will drop out; a court appearance nearly quadruples those odds.⁵⁵ Students who don't graduate from high school enter adulthood with higher unemployment rates, reduced job options and lower wages.⁵⁶ Needlessly shutting kids out of diversion derails rehabilitation and adult self-sufficiency.

An attorney told us how a school's decision to deny enrollment to her teenaged client led to a quick series of setbacks.

"Right after [my client] turned 16, he got picked up in another county on a felony charge. He was appointed a lawyer who convinced him to plead to 'get it over with.' This lawyer failed to advise him that he could be denied enrollment in school. He went to camp, came back home ready to enroll in school. ...

A week before school starts, he gets a letter [from the school] telling him no. I appealed but it took weeks. In the meantime, he started sneaking out, breaking probation. The family is frustrated. He's picked up on another charge. His grandmother had bailed him out before, but is disinclined to do it again, plus she doesn't have the money. He's deemed a flight risk, so he stays in jail for a long time. I won the school appeal, but it was meaningless given everything else that happened. On paper it was a victory, but not for the kid. It all felt so hopeless, everything is an insurmountable barrier. How do you tell a child to keep trying when nothing says it's worthwhile to try?"

Prolonged and Deeper Involvement in the Juvenile System

Even as poverty makes it harder to comply with the mandates of the juvenile system, the failure to comply results in an escalation of the case. The longer and more intrusive the court's supervision, the more difficult it is to maintain a clean track record. Each violation intensifies the degree of involvement. For example, a young person who interferes with or disobeys the court or a court order can be held in contempt.⁵⁷ For in-court incidents, a judge can order detention, additional community service hours or evaluation.⁵⁸ Out of court incidents are treated as a new delinquent act—except now, of course, the young person is likely to get bumped into a higher dispositional level because of the additional offense.⁵⁹ Either way, the young person is now more entangled in the juvenile system.

⁵³ Langberg, *Putting Justice in North Carolina's Juvenile Justice System*, 12.

⁵⁴ Annie E. Casey Foundation, *Expand the Use of Diversion from the Juvenile Justice System*, 3–4; Wilson and Hoge, "The Effect of Youth Diversion Programs on Recidivism."

⁵⁵ Nance, "Students, Police, and the School-To-Prison Pipeline," 2016, 955.

⁵⁶ See Suitts, Dunn, and Sabree, *Just Learning: The Imperative to Transform Juvenile Justice Systems Into Effective Educational Systems*, 18; School Justice Partnership, *August 2019 Toolkit: A Step-by-Step Guide to Implementing a School Justice Partnership*, 4; Annie E. Casey Foundation, *Expand the Use of Diversion from the Juvenile Justice System*, 8.

⁵⁷ N.C. General Statutes § 5A-31(a)(4).

⁵⁸ N.C. General Statutes § 5A-32(c).

⁵⁹ N.C. General Statutes § 5A-33.

Probation violations often trip up poor youth. Probation, which is routinely ordered to give courts regular supervision over adjudicated youth, introduces a range of conditions—in addition to the other dispositional terms—that a young person must follow. Common conditions like remaining on good behavior or following parental rules are subjective and hard for any young person to resist pushing against from time to time.⁶⁰ If probation is violated, the court can extend or modify the conditions of probation, alter the disposition, confine the young person to a secure juvenile detention facility or issue a new disposition at a higher level.⁶¹

Probation or other dispositional terms are often violated because they are not feasible, appropriate or well-matched to a family's circumstances, and that, said one interviewee, "has everything to do with poverty." She noted, "If a family has trouble meeting the terms of probation—because of time commitments or transportation or other life or economic issues—this results in the kid staying on probation even if it's not serving any real purpose." An attorney gave the example of a judge who ordered the family to provide their child with tutoring.

Why is that not for the school to deal with? It's literally the school's foundational purpose. If the student isn't learning or is struggling in the classroom, that's the school's job to figure out. But it's indicative of unnecessary terms that present economic barriers.

A child advocate described how poverty challenges lead to probation violations that then beget more probation.

Say the court orders pro-social activity, which is good, but if you don't have transportation, too bad. Probation is violated—and it's violated continuously. The kids that come off probation are few and far between. They either cycle through the [dispositional] levels or they age out and are picked up as adult.

Other poverty-related barriers, such as inaccessible services or unstable housing, can draw out the amount of time spent in the juvenile system and ratchet up the case's severity. A juvenile justice scholar noted that cases come to halt when families can't obtain services ordered by the court. With their cases stalled, youth run the risk of running afoul of other terms of the disposition.

For families who have been denied services, they're stuck in limbo. The case lingers. Nothing moves forward. The kid might get tripped up by other requirements, there are more chances to fail, even as they're not getting the services that could really help them.

Poverty makes detention more likely, either before the court hearing or after adjudication. Poor youth are more commonly placed in custody than their wealthier peers.⁶² According to one youth advocate,

The majority of barriers come to a head at detention centers. I see kids come in with paid lawyers, two-parent homes, typically white, and they're there for twelve hours and then go home. But other kids stay and stay. They don't have stable housing. If parents are employed, they're underpaid.

⁶⁰ N.C. General Statutes § 7B 7B-2510.

⁶¹ N.C. General Statutes § 7B 7B-2510(e).

⁶² Birkhead, "Delinquent by Reason of Poverty," 83. A large majority of youth (70%) report living with one or no parents when they're taken into custody, a key indicator of low household income. See Sedlak and Bruce, *Youth's Characteristics and Backgrounds: Findings from the Survey of Youth in Residential Placement*, 6.

They're forced to comply with court requirements. If the kid is in detention, parents have to come every seven days to a hearing for a detention review, at the time the court determines. They don't have jobs that allow them to take the time off, so they lose their jobs. But court requires stable housing, so around and around you go.

As a young person cycles through increasing levels of dispositional severity, the possibility of some type of secure custody increases. Research has repeatedly shown that the harm of the juvenile justice system intensifies with the level of involvement.⁶³ Although detention is supposed to be a short-term event, one of our interviewees was working with “several kids who are waiting to be bound over to adult system and have been there [in detention] six months, one year, two years. Then several more are waiting for YDC placement, or a lawyer.”

Detention is especially problematic for youth. It separates the young person from family and community, removes them from familiar sources of support and interferes with school. It can be particularly perilous for youth dealing with mental health issues and is linked to poor health and depression in adulthood.⁶⁴ It is no more effective than community-based programs or probation at preventing recidivism—and may actually increase it.⁶⁵ Incarcerated youth are more likely to drop out of school, be arrested and incarcerated as adults, work less, experience higher rates of unemployment and earn lower wages.⁶⁶

Ultimately, poverty pushes children deeper into and extends contact with the juvenile system, taking a tremendous toll on the young person and the entire family.

Playing it out, every contact with the juvenile system makes future contact more likely. You become more disengaged from school, bouncing between placements, suspended. You spiral out of school, which means you violate probation, then you act out more. You drop out or you graduate somehow but without skills. You're already living in poverty, trying to find acceptance. You're told you're delinquent, then you fall into more serious activities to validate and meet your needs. With at-home placement kids have no trust, there are so many people cycling in and out. They trot out the “I'm here to help” line but then something changes, and they disappear. This leads to further disengagement. You're already dealing with deficit of opportunity, where do you go? Minimum wage job?

⁶³ Gatti, Tremblay, and Vitaro, “Iatrogenic Effect of Juvenile Justice.”

⁶⁴ At least three teenagers have died by suicide in North Carolina jails in recent years. Price, “Teen Dies of Apparent Suicide Saturday at Mecklenburg Jail North, N.C. Officials Say”; WTVD News, “What Can Be Done After Teen Deaths Behind Bars?” See also Holman and Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, 2. For more on mental health and depression in adulthood, see Barnert et al., “How Does Incarcerating Young People Affect Their Adult Health Outcomes?”

⁶⁵ Pew Charitable Trusts, *Re-Examining Juvenile Incarceration*, 1–2; Holman and Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, 4–7; Mendel, *No Place for Kids: The Case for Reducing Juvenile Incarceration*; Mulvey, *Highlights from Pathways to Desistance: A Longitudinal Study of Serious Adolescent Offenders*.

⁶⁶ Holman and Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*; Justice Policy Institute, *Sticker Shock 2020: The Cost of Youth Incarceration*, 11; Aizer and Doyle, Jr., *Juvenile Incarceration, Human Capital and Future Crime: Evidence from Randomly-Assigned Judges*.

Labeling and Stigma

Delinquency stamps youth as flawed or bad. Adjudicated youth who are labeled by family, community and law enforcement as “criminal” are more likely to be re-arrested as a result of this perception.⁶⁷ Youth can also accept and adopt that label for themselves, tarnishing their sense of identity, self-worth and self-direction.⁶⁸ An attorney put it this way:

Kids internalize labels. Families deal with such significant instability, the kids turn to what they can to find validation or income, to meet their needs. ... Labeling a child when they're finding their identity, to stand up in court room where justice happens, to be labeled that way is irreparable harm, even if well-intentioned. The attitude is “We're trying to fix you, you're broken.” And even if there are improvements, they're ordered by someone else. The child loses autonomy in the process.

Another attorney questioned whether the adversarial nature of some juvenile courts—and in-court practices like handcuffing, shackling and dressing down—advance the rehabilitative purpose of the juvenile system.⁶⁹ “Some judges,” stated an interviewee, “take the opportunity to lecture—they really go to town.” A juvenile defender described a devastating moment that illustrates the emotional damage juvenile court can inflict. Her client, a 14-year-old boy, had violated probation. She continued,

He had been hanging out with two friends, co-defendants he was supposed to avoid as a term of probation. However, a fourth friend of all of them had been killed, so they were hanging out in the aftermath of this fourth friend's murder. He tried to explain this to the judge. He said, “I'm going to keep hanging out with my friends, I don't care what you do.” The judge ordered that he be locked up. The detention area was behind the bench, so he was brought in front and shackled. I could hear the locks close. It looked like a slave auction. The parents were crying, I was crying, the kid was crying as they led him away. In the middle of this wrenching scene, the mom stood up and asked to be excused because she's got to go to work. Parents can't afford to be involved. The kid felt abandoned. “Nobody cares about how I felt,” he said. “Nobody.”

The fact of a family's poverty can bleed into the case and spawn normative and value-laden assumptions about parents and children.⁷⁰ Juvenile courts have the authority to consider the broad circumstances surrounding delinquency cases, which can raise humiliating and gratuitous evidence about the family. These “shaming practices”—in-court discussions of parents' past conduct, the family's history and dynamics, the youth's school records and the like—are fueled by poverty, which gives these details additional bite.⁷¹ Defense lawyers may try to “blame” parents or diminish a young person's capacity in order to persuade a judge to go easy. Poor parents with a child in juvenile court are judged themselves and often found lacking.

⁶⁷ Liberman, Kirk, and Kim, “Labeling Effects of First Juvenile Arrests.”

⁶⁸ Bircckhead, “Delinquent by Reason of Poverty,” 100.

⁶⁹ Until December 2020, youth in juvenile court in Durham County were “routinely” shackled. Bridges, “After Media Report, Judge Says He Will Stop Routine Practice of Shackling Children as Young as Age 6.” See also Bridges, “In Durham, Children Are Often Restrained in Court. Is It a Violation of State Law?”

⁷⁰ See Bircckhead, “Delinquent by Reason of Poverty,” 92–96.

⁷¹ Johnson and Quinn, “Chaining Kids to the Ever Turning Wheel: Other Contemporary Costs of Juvenile Court Involvement,” 165–67.

Parents must “deal with all these systems telling you your kid is messed up, and by association, you messed up.” “It’s parent shaming,” stated an attorney simply. “The notion,” remarked another, “is that we’re helping kids, that the families can’t help themselves. It’s a paternalistic point of view.”

The School-to-Prison Pipeline and Racial Inequity

School-based complaints are one of the most common ways for a young person to enter into the juvenile justice system. From elementary school onward, public school students perceived as difficult or refractory are pushed out of the classroom and into the legal system. The criminalization of in-school behavior is known as the school-to-prison pipeline. During 2018-2019, over 9,000 juvenile delinquency complaints were school based, making up 45.1% of all delinquency complaints in North Carolina. In 34 counties, school-based delinquency complaints constituted 60% or more of all complaints. These were generally low-level offenses: 92.4% of school-based complaints were misdemeanors.⁷²

The presence of school resource officers (SROs) in schools has been linked to an increase in arrests, especially for conduct that used to be handled by school administrators.⁷³ School districts are employing SROs in growing numbers. In 2017, approximately 1,200 SROs patrolled public schools in North Carolina, about twice as many as there were in 2000.⁷⁴ Evidence suggests that SROs are typically placed at schools with a larger portion of minority and economically disadvantaged students.⁷⁵ One interviewee identified SROs as one of the primary ways poverty is introduced into the juvenile system. “The school-to-prison pipeline is alive and well,” she reported.

For behavior like disorderly conduct or assault—behavior that’s understandable when kids are not engaged in schools, or are acting out, or have other issues, or are simply acting like kids—they are absolutely going to see an SRO in schools that are poor or mostly students of color.

School disciplinary measures also feed the pipeline. Suspensions and expulsions increase the chance that students will drop out of school, repeat a grade or engage in future delinquent behavior.⁷⁶ A single suspension nearly triples the likelihood that a child will come into contact with the juvenile justice system.⁷⁷ Despite these adverse consequences, public school students in North Carolina missed more than 609,000 days of school due to short-term suspensions in the 2018-2019 school year.⁷⁸

⁷² North Carolina Judicial Branch, “School-Based Complaints by Fiscal Year,” July 1, 2020, <https://www.nccourts.gov/documents/publications/school-based-complaints-by-fiscal-year>.

⁷³ Theriot, “School Resource Officers and the Criminalization of Student Behavior,” 283; Nance, “Students, Police, and the School-To-Prison Pipeline,” 970.

⁷⁴ Langberg, *Putting Justice in North Carolina’s Juvenile Justice System*, 7; North Carolina Department of Public Instruction, *North Carolina School Resource Officer Survey*, 3.

⁷⁵ Theriot, “School Resource Officers and the Criminalization of Student Behavior,” 283.

⁷⁶ Justice Policy Institute, *Education Under Arrest: The Case Against Police in Schools*, 18; Fabelo et al., *Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement*.

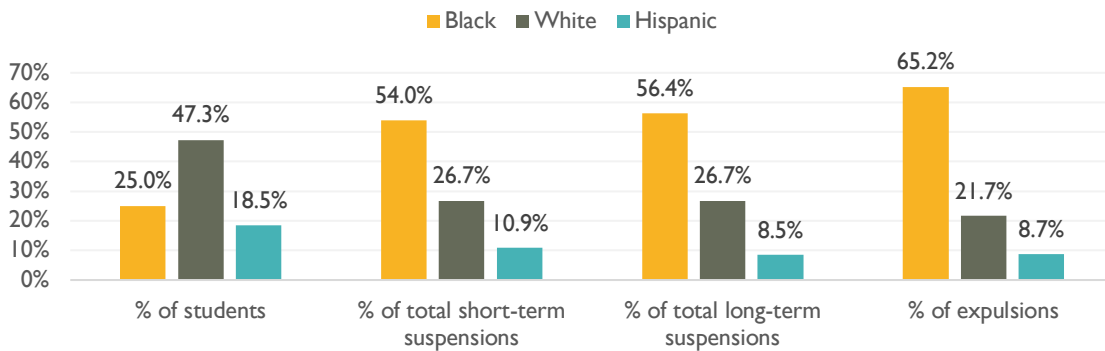
⁷⁷ Fabelo et al., *Breaking Schools’ Rules*, 70.

⁷⁸ North Carolina Department of Public Instruction, “Annual Reports - Consolidated Data Reports, Suspension Table S4 2018-19,” <https://www.dpi.nc.gov/data-reports/dropout-and-discipline-data/discipline-alp-and-dropout-annual-reports>.

School based complaints and school discipline are highly racially disproportionate.⁷⁹ As a result, the school-to-prison pipeline is especially deleterious for Black youth. During the 2018-19 school year, Black students in North Carolina were 25% of the state’s public-school enrollment but they represented the majority of suspensions and expulsions (Figure 6) and almost half of school-based delinquency complaints.⁸⁰ These racial inequities were emphasized in our interviews. “What is a detention or ISS [in school suspension] for a White student can often be a petition for juvenile delinquency for a Black student,” observed a defense attorney.

“Policing is the big issue, where you have disorderly conduct—a complaint that’s so subjective and should be dealt with in school. It’s racially charged. The White kids are sent to detention, Black kids to the SRO and the SRO initiates the petition.”

Figure 6. NC public school suspensions and expulsions by race, 2018-2019



Source: North Carolina Department of Public Instruction

Racial disparities in the school-to-prison pipeline are not an isolated phenomenon. They reflect the racial inequities that plague all aspects of our criminal justice system. Black and White youth have roughly equivalent offending rates and report comparable levels of risky behaviors, yet Black youth are overrepresented at numerous points throughout the juvenile system.⁸¹ A 2019 study of disproportionate minority contact in North Carolina’s juvenile system made clear the racial disparities that exist. Although Black youth were about a quarter of six- to fifteen-year-olds in the state, they made up 55.8% of complaints received, 58.9% of complaints approved, 54.9% of cases adjudicated and 74.4% of cases confined to a YDC.⁸² In addition, the study looked at several key decision points in isolation (focusing only on the share

⁷⁹ Southern Coalition for Social Justice, Youth Justice Project, “Racial Equity Report Cards.” See Fabelo et al., *Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement*, finding that Black students faced a higher likelihood of suspension or expulsion, even after controlling for a range of variables.

⁸⁰ North Carolina Judicial Branch, “School-Based Complaints by Fiscal Year,” July 1, 2020, <https://www.nccourts.gov/documents/publications/school-based-complaints-by-fiscal-year>.

⁸¹ For incidence of risky behavior among high school students, see Centers for Disease Control and Prevention, High School YRBS, “North Carolina 2019 Results,” <https://nccd.cdc.gov/youthonline/App/Results.aspx?LID=NC>. For more discussion of group differences in offending, see Rovner, *Disproportionate Minority Contact in the Juvenile Justice System*. For rates by race at successive decision points in juvenile cases in North Carolina, see Burns Institute, United States of Disparities, “North Carolina,” <https://usdata.burnsinstitute.org>. See also Orchowsky, Leiber, and Jaynes, *Disproportionate Minority Contact in North Carolina: An Assessment Study*.

⁸² Orchowsky, Leiber, and Jaynes, *Disproportionate Minority Contact in North Carolina: An Assessment Study*, 20.

by race that advanced from one stage in the juvenile system to the next). Here again, it found that Black youth were pushed into more intensive involvement in the juvenile system at higher rates.⁸³

The percentage of Black and Latinx children living below the poverty line is nearly three times greater than it is for White children. Poverty and structural racism come together, bringing Black youth into more frequent and more extensive contact with the juvenile system. This disparate treatment burdens communities that have been systematically disadvantaged, diminishes the future prospects of Black youth, and deepens economic disparities by race.

Going Forward

The coronavirus pandemic, which erupted during the course of this project, has highlighted the challenges of poverty in the juvenile system. Interview and survey participants reported that the COVID-19 outbreak has created more difficulties for youth, particularly around housing instability and access to technology. The results are predictable: families not receiving notice because of frequent moves, more youth in “unstable/transitional housing,” “cases being continued endlessly due to shut downs,” and case delays and violations due to technology-related reasons. One respondent gave an example of the impacts she had seen.

Many do not have access to the internet or technology that is required for telehealth sessions to address mental health needs. In the detention center, in-person visits have been stopped, and since families have limited access to technology, they are also unable to have visits via video chat. There is often less supervision from court services since court counselors have also been limiting in person visits. Court hearings have been cancelled, postponed, etc. along with attorney visits, leaving youth in detention or waiting an answer regarding their case for longer than they normally would (which is already WAY too long).

At the same time, this is a dynamic moment for a reevaluation of North Carolina’s juvenile justice system. Rapid changes to the administration of justice wrought by COVID-19 join those recently put in place due to the Raise the Age law. New proposals such as raising the minimum age of juvenile jurisdiction and other reforms have gained momentum.⁸⁴ Abolishing fees would be a natural extension of this work, promoting family stability and youth rehabilitation while ameliorating their disparate impact on poor and minority youth.

Experts we spoke to proposed other thoughtful reforms geared toward improving outcomes for kids already in the juvenile system. These include increased use of tools like needs assessments that allow courts to focus on ways to “mend a juvenile’s situation rather than just try to impose as many conditions as possible.” Others emphasized the importance of individualized treatment. Remarkd an attorney, “We treat all kids the same and fail to look at each child individually. ... It’s very cookie cutter.” Community service and

⁸³ Orchowsky, Leiber, and Jaynes, 21.

⁸⁴ Of all states that set a minimum age for juvenile jurisdiction, North Carolina has the lowest at six years old. For more information on efforts to raise the minimum age, see Bridges, “State Sends 6-Year-Olds to Court; Advocates Now Push to Increase Age.” For more recommendations around the juvenile justice system generally, see North Carolina Task Force for Racial Equity in Criminal Justice, *Report 2020*, 38–40, 58, 81–83.

other community-based programs can be expanded and revamped so “kids could be exposed to experiences and made aware of possibilities” they wouldn’t otherwise encounter. Collaboration with a broader base of community organizations could uncover “unorthodox ways to rehabilitate, show kids a better way.” Expanded programs and a broader range of partnerships could better match kids’ needs and goals, including adapting to North Carolina’s increasingly diverse population.

Other interviewees offered a more fundamental critique. They wrestled with the engrained nature of poverty and race in the juvenile system, and the “failure of other providers to step into that breach.” Asked one expert, after a “kid comes home from a YDC, what’s changed? Same school, same peers, same housing problems, same food insecurity.” To address basic needs, suggested another, the juvenile system has to do more to commit itself to rehabilitation.

We need more resources in the community, more focus away from detention and YDCs. Everyone says that’s the goal of Raise the Age, but I don’t see that happening. They’re opening a new YDC now. We must invest in wrap-around services, additional staff.

Another, catalyzed by the movement for racial justice, preferred to look for solutions outside the juvenile system.

It’s been inspiring to see the divest culture instead of talking about reforms. Reforms fail to address the underlying problems that are triggering the behavior or the systemic racism that pigeonholes [kids] in the first place. This isn’t about fixing the system. It has to be re-visioned and done away with. While a lot of the conversation has been about the adult system, it applies to youth as well. You can’t just shift kids from courts to SJPs [School Justice Partnerships] without reflecting the problems that put them there in the first place. You’re just going to see the same kids that would be in the court system in SJPs.

She added, “I’m so inspired by the people leading this movement, to say we need health care, for example, not courts. We’re reactive in the court system. We need to look to people who can credibly assess its impact.”

North Carolina’s juvenile justice system is filled with poor kids. The direct and indirect costs imposed by the juvenile system come down hardest on those families with the fewest resources. When they are unable to pay the price the system demands, youth and parents are punished in ways that perpetuate poverty. These costs intensify economic hardship, push poor youth deeper into the juvenile system, jeopardize rehabilitation, endanger future prospects and entrench poverty and racial disparities. To combat and prevent injustices in the juvenile system, we need both reform and revisioning. North Carolina is lucky to have a community of deeply engaged advocates who fight for youth every day. We hope this report amplifies their efforts and spurs further examination of this critical topic.

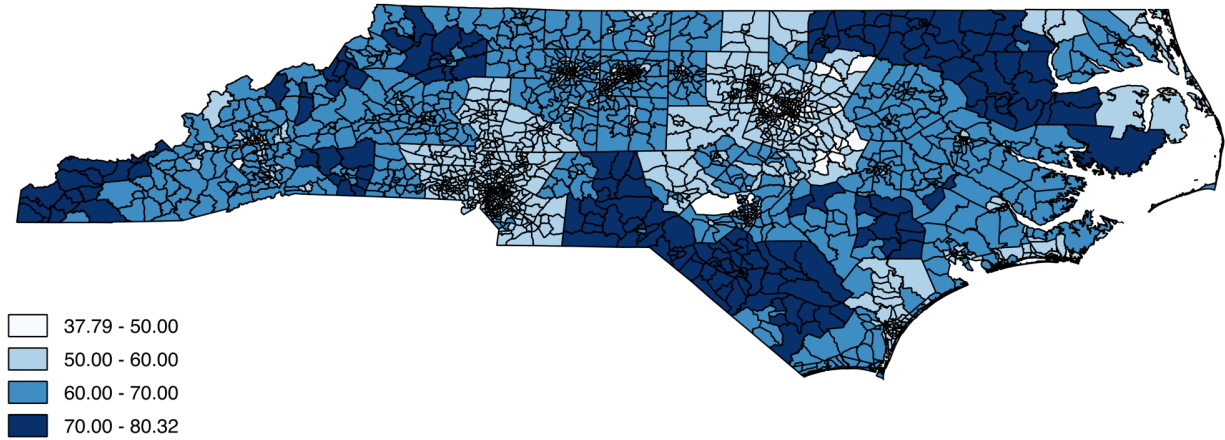
Appendix A. Delinquency Rate by County, 2019

County	Delinquent Rate per 1,000 Age 6 to 15	County	Delinquent Rate per 1,000 Age 6 to 15	County	Delinquent Rate per 1,000 Age 6 to 15
Tyrrell	64.02	Vance	21.02	Stanly	13.14
Martin	57.76	McDowell	20.97	Caswell	13.05
Richmond	39.93	Scotland	20.95	Duplin	12.99
Halifax	38.26	Edgecombe	20.40	Ashe	12.96
Chowan	34.98	Lincoln	20.02	Mecklenburg	12.33
Pasquotank	32.58	Forsyth	19.80	Person	11.80
Columbus	29.93	Rutherford	19.55	Durham	11.59
Hoke	29.39	Yadkin	19.45	Gaston	11.45
Wilkes	29.11	Northampton	19.06	Pamlico	10.67
Cleveland	28.84	Stokes	18.97	Cherokee	10.36
Burke	28.63	Mitchell	18.26	Nash	10.31
Pitt	27.65	Onslow	18.23	Wayne	10.21
Avery	27.56	Lenoir	17.98	Moore	9.81
Alamance	27.29	Craven	17.84	Haywood	9.73
Caldwell	26.63	Buncombe	17.83	Camden	9.68
Lee	26.57	Polk	17.59	Alleghany	8.94
Perquimans	26.40	Cumberland	17.49	Wake	8.83
Beaufort	25.97	Union	17.42	Bertie	8.56
Jones	25.25	Warren	17.04	Madison	8.24
Iredell	24.94	Pender	16.88	Bladen	7.96
Macon	24.52	Greene	16.87	Yancey	6.90
Robeson	24.36	NORTH CAROLINA	16.82	Cabarrus	6.51
Dare	24.32	Davie	16.36	Transylvania	6.31
Wilson	23.89	Currituck	16.15	Montgomery	4.67
Rockingham	23.67	Watauga	16.12	Granville	4.60
Chatham	23.49	New Hanover	15.69	Franklin	4.42
Anson	23.41	Hyde	15.47	Gates	2.16
Washington	23.30	Brunswick	15.13		
Catawba	22.86	Sampson	15.11		
Guilford	22.58	Carteret	14.65		
Surry	22.45	Graham	14.58		
Hertford	22.37	Johnston	14.17		
Jackson	22.32	Randolph	14.12		
Alexander	22.03	Orange	14.06		
Davidson	21.79	Swain	13.99		
Harnett	21.45	Henderson	13.80		
Clay	21.20	Rowan	13.27		

Source: North Carolina Department of Public Safety, 2019 County Databook

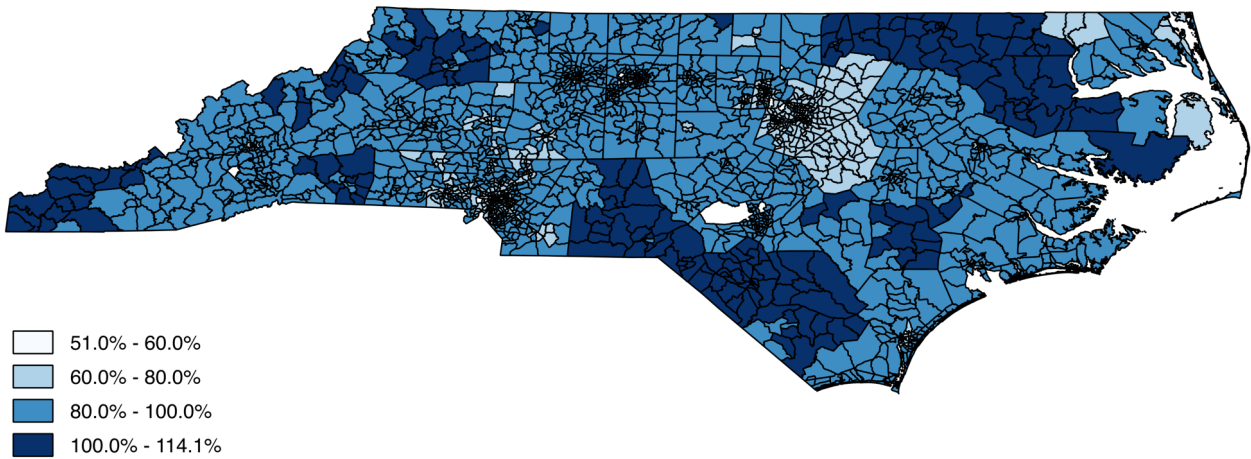
Appendix B. Housing and Transportation Costs as Percent of Income

Median Family



Source: United States Department of Housing and Urban Development, Location Affordability Index v. 3

Single Parent Family



Source: United States Department of Housing and Urban Development, Location Affordability Index v. 3

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The Fund's other reports on the criminalization of poverty as well as its portraits of poverty series are available at: <https://law.unc.edu/academics/centers-and-programs/n-c-poverty-research-fund/>.