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*“The Juvenile Justice Initiative of Illinois works to achieve humane, equitable and sustainable reforms for children and young adults in the justice system.”*

Virtual Joint Hearing Senate Criminal Law and Senate Special Committee on Public Safety  
Tuesday, October 13, 2020

Subject Matter On: Prison Reform, specifically in the following areas: 1) Diversion and Re-Entry Programs  
2) Prison Conditions 3) Prison Gerrymandering 4) Mandatory Supervised Release Reform

**RE: Testimony**

Members of the Legislature:

My name is Elizabeth Clarke and I am the founder and President of the Juvenile Justice Initiative, a nonprofit and independently funded juvenile justice public policy organization. I want to thank Criminal Justice Chair Sims and Public Safety Chair Peters and the members of the committees for holding these hearings on these critical issues in criminal justice. The increase in prisons in Illinois during my professional lifetime has been shocking – we have gone from a statewide prison population under 12,000 in 1980 to a current population around 38,000 – a threefold increase over four decades. <sup>1</sup>

**Teenagers (age 18 and 19) are especially impacted by the conditions in our adult prisons.** These older teenagers share many of the same attributes as younger teens but are prosecuted and sentenced as adults and serve their sentences in the adult correctional centers. A recent national report revealed these **emerging adults experience the worst racial disparities in arrest and incarceration of any age group in the justice system.** <sup>2</sup>

**End the incarceration of teenagers in adult prisons.** An alternative approach to young adult justice, already adopted by the state of Vermont, involves raising the age of juvenile court. State Sen. Laura Fine has a bill (SB239) which would raise the age of juvenile court to 21 for misdemeanor charges. This proposal includes a graduated implementation which gives the state time to study the population as they are integrated into the juvenile system for better long term outcomes, would grant young adults access to aftercare services currently available to the juvenile population and would not prevent the transfer to adult court if the prosecutor and judge believe the case should be transferred.

Juvenile sentences for young adults, age 18 and up into the early 20's, have been the norm in Germany since the 1950's. Germany prohibits prosecution of children under the age of 14, so there is no mixing of pre-teens with older teens in detention facilities. The success of the German model has inspired similar reforms across the U.S. Recently, the state of Vermont implemented a reform that brought eighteen year olds into the juvenile system as

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<sup>1</sup> <https://www.civicfed.org/iifs/blog/trends-illinois-department-corrections-spending-and-prison-population>

<sup>2</sup> <https://jlc.org/resources/rethinking-justice-emerging-adults-spotlight-great-lakes-region#:~:text=Rethinking%20Justice%20for%20Emerging%20Adults%3A%20Spotlight%20on%20the%20Great%20Lakes%20Region,-Karen%20U.&text=New%20research%20shows%20that%20emerging,they%20are%20treated%20very%20differently.>

of July, 2020 – a transition that went into effect without any difficulty and with far lower numbers than anticipated. Nineteen year olds will start in the juvenile system as of July, 2022.<sup>3</sup>

Alarmed by the racial disparities and harsh treatment of older teens, JJI joined with the Justice Lab of Columbia University to organize a Policy Academy to reimagine the justice system in Illinois as it applies to young adults. The Policy Academy examined trends and best practices across the U.S. and in other developed nations. Over the past two years, JJI has brought in system leaders to participate in educational summits and has led stakeholders on two educational site visits to learn from the German justice and correctional system that is based on human dignity. This is consistent with emerging best practices across the U.S. As **CBS News 60 Minutes** has documented, several U.S. states are utilizing cross-national educational site visits to provide the catalyst for transformative reform. “ *As we first reported in 2016, American politicians and prison supervisors are looking for new ideas - in Germany. The main objective of German prisons is rehabilitation, not retribution. **Germany spends less money on prisons, but gets better results. Their recidivism rate is about half the U.S. rate.***”<sup>4</sup>

Over the past decade, several states have seen impact from dialogue and educational trips by stakeholder delegations to nations with justice systems focused on principles of human dignity, reintegration & restoration. The Vera Institute of Justice and the Prison Law Office initiated a collaboration in 2013 on policy reform processes that have included cross-national innovations, with participation from states as varied as **Pennsylvania, North Dakota, Colorado and Connecticut**. Vera documented the initiative in a policy brief entitled *Sentencing and Prison Practices in Germany and the Netherlands: Implications for the United States*, Oct. 2013.<sup>5</sup> In 2018, the Vera Institute held a convening to Reimagine Prison with Vera’s President Nick Turner opening the convening by noting that reimagining prisons is a bold initiative, born out of the vision of a prison system based on the fundamental commitment to human dignity that he observed on his first trip to Germany – “**What we saw overseas was a fundamental commitment to human dignity and that needs to be the base of change.**”

Correctional reform in **Connecticut** based on ideas gleaned from a visit to Germany **includes a young adult prison unit based on the German model of normalization.**<sup>6</sup>

CNN, NPR and US News have documented how **North Dakota correctional officials implemented reforms** in their correctional system based on a visit to Norway.<sup>7</sup>

#### **HUMAN DIGNITY makes a DIFFERENCE.**

**Centering a prison system on the principle of human dignity makes a startlingly significant difference in conditions and in outcomes.**

#### **CONDITIONS.**

**European prison rules clarify that imprisonment, (removal from family), is the punishment “and therefore the regime for sentenced prisoners shall not aggravate the suffering inherent in imprisonment.”** The objective of a

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<sup>3</sup><https://legislature.vermont.gov/Documents/2020/WorkGroups/Justice%20Oversight/Juvenile%20Justice/W~Karen%20Vastine~Act%20201%20Implementation-%20Vermont%27s%20Raise%20the%20Age%20Initiative%20~11-13-2019.pdf>

<sup>4</sup> <https://www.cbsnews.com/news/60-minutes-presents-behind-bars-prison/> and repeated in March of 2019: <https://www.cbsnews.com/video/60-minutes-presents-behind-bars-3/>

<sup>5</sup> <https://www.vera.org/publications/sentencing-and-prison-practices-in-germany-and-the-netherlands-implications-for-the-united-states>

<sup>6</sup> <https://valedailynews.com/blog/2018/05/05/true-prison-reform/>

<sup>7</sup> <https://www.cnn.com/2018/03/08/us/prison-reform-north-dakota-norway/index.html>  
<https://www.npr.org/2018/07/31/630602624/north-dakota-prison-officials-think-outside-the-box-to-revamp-solitary-confinement> [https://www.usnews.com/news/best-states/articles/2019-02-22/inspired-by-norways-approach-north-dakota-reforms-its-prisons?src=usn\\_tw](https://www.usnews.com/news/best-states/articles/2019-02-22/inspired-by-norways-approach-north-dakota-reforms-its-prisons?src=usn_tw)

prison sentence is to enable the person to live a life of social responsibility. German law requires life in prison to be organized around humane treatment and “**normalization**”, which means:

- Small living groups
- Single cells
- Self-catering (prepare own meals)
- Telephone calls
- Sufficient reading materials
- Unrestricted access to radio and television
- Active right to vote
- Right to practice own religion

Germany further requires the focus of imprisonment to center around **reintegration into society** which means:

- Preparation for release from the beginning
- Treatment programs
- Vocational programs
- Educational programs
- Work release
- Conditional leaves
- Early releases

**NO PRISON RECORD** – once released, you have served your sentence. Employment certification same as those obtained outside prison - will not reflect fact that the certificate was obtained in prison.

**Prison staff training is extensive – two years.**

- Two years of theoretical and practical training.
- Theoretical training includes psychology, social education, education, social competence training, various types of laws, as well as prison management.

Attached as an appendix to this testimony is a report from our latest stakeholder visit to Germany, where we examined the treatment of young adults in prison in Hamburg, Germany.

**In conclusion** - It is essential that the Legislature consider these reforms to ensure all our teenagers are given the basic rights and humane treatment that is essential for a just society, and that are consistent with basic human rights extended to young adults in confinement in most developed nations.

Sincerely,

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**APPENDIX – Report by JJI from stakeholder visit to young adult prison in Hamburg, Germany.**

## REIMAGINE JUSTICE – Stakeholder Visit to Germany, 2020

The Juvenile Justice Initiative (JJI) advocates for fairness and the highest standards of human rights for all children and young adults in conflict with the law. The JJI has long been concerned about the high levels of incarceration of children and young adults - the product of outdated policies that fail to incorporate the most basic of international standards. Learning from international standards and best practices is required, based on resolutions passed by the City of Chicago and the County of Cook.<sup>1</sup>

In order to provide more context to this issue, the JJI has led two stakeholder visits to Germany, a nation that embraces human dignity and international standards. **Germany has used juvenile sentences for young adults since the 1950's.**

Our first visit, in February of 2019, was to Berlin and a juvenile prison about two hours outside of Berlin in Mecklenberg. Our second visit, in March of 2020, was to Hamburg. The lessons from all three sites were consistent. These notes describe our findings in Hamburg.

It's important to note that Germany is not all as monolithic in ethnicity and culture as sometimes perceived. **Hamburg is the second largest city in Germany - a welcoming and prosperous port city with over 34% of their population immigrants.** Hamburg has the largest Afghan diasporic population of any city on the continent. The neighborhood where we stayed had a large North African and Turkish population with thriving middle eastern restaurants and a mosque two blocks from our hotel.

In Germany – as in the rest of Europe – the major public safety concern involves protection against extremism and terrorist acts. Yet, unlike the U.S., European advocates have had high levels of success in encouraging governments to address these concerns through social inclusion, education, and prevention efforts, rather than punishment. **The emphasis on prevention means that, as one German official told us, “You have to work very hard to get into prison in Germany”.** Hamburg, a city of 1.8 million people, had a total pre and post trial prison population of 1,783 on the week we visited. That was everyone – juvenile and adult – in pre-trial “jail” and post-trial “prison”. By contrast, Cook County has three times the population but three times that number in pre-trial jail alone – and that doesn't include juvenile detention, juvenile prison or adult prison numbers. By my calculation, **Hamburg uses incarceration at about one-tenth the level of incarceration in Cook County.**

**JUVENILE PRISON:** Our first visit was to the only juvenile facility, JVA Hahnöfersand, located about twenty minutes from central Hamburg on a peninsula at the end of a road winding through apple orchards.



**The facility held “juveniles”, defined as between ages 14-21. In Germany, children under the age of 14 cannot be prosecuted, nor imprisoned.** By contrast, in Illinois (and in most U.S. states) there is NO minimum age for prosecution – leading to news coverage of prosecutors charging 9 year olds with felony offenses, and police handcuffing children in elementary school.

**The longest possible sentence for a juvenile in Germany is fifteen years** – this is a recent increase in the law from the previous limit of ten years. **No juvenile under the age of 18 can be tried as an adult in Germany.**

**Young adults (ages 18-21) in Germany are eligible for juvenile sentences – and juvenile sentences are generally imposed, especially in serious cases.** Thus, the “juvenile” prison in Hamburg included persons who would normally be prosecuted and sentenced in the adult system in the U.S.

**The total number of juveniles on the day we visited was 120.** The 120 number included both pre-trial and post-trial, age 14 to 21. By contrast, Cook County holds that number of juveniles (age 13-18) in pre-trial detention – but that doesn’t include the Cook County youth in state juvenile prison, nor the Cook County young adults, age 18-21, in Cook County Jail and in the IL Dept. of Corrections. Again, by my estimate, Hamburg locks up about one-tenth the number of persons locked up in Cook County.

**The majority (80%) of the 120 juveniles in Hamburg prison were in on “violent” offenses,** mostly robbery and assaults but including 5% for murder and 5% for sex offenses.

While the setting was very green and lush with trees and flowers beginning to bloom, the buildings were old, some from just after WW1. This was definitely prison, but the juveniles did

not wear uniforms, and on one of the units they cooked and ate dinner together. Judges come to the prison once a month. Families visits are encouraged – a minimum of 4 hours/month.

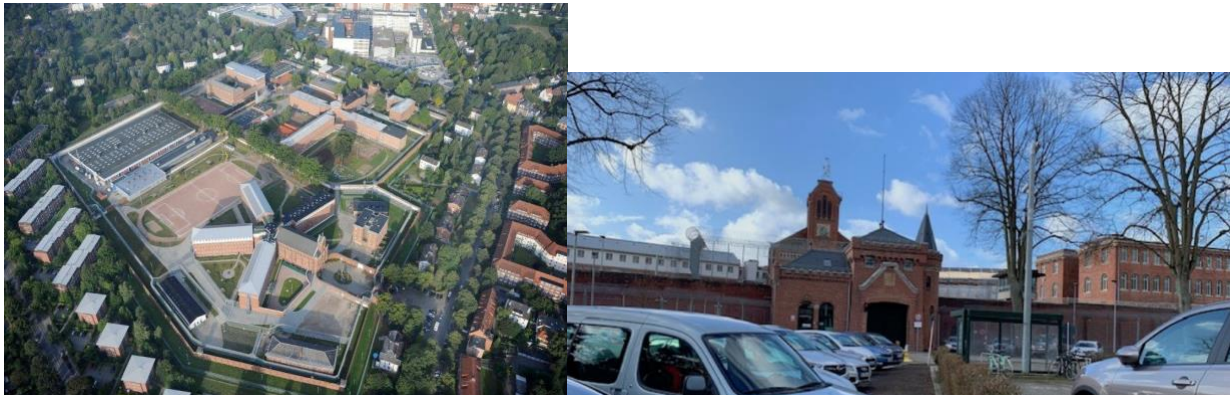
The facility offered a variety of work training programs, including welding, that could result in a certificate. The certificate earned in prison is the same as earned on the outside – it does not reflect that fact that it was earned in prison. **In Germany, there is a strong emphasis on reintegration, so once you have served your sentence, it is over** – no record will follow you (with a few limited exceptions where employers such as banks could request a background check).

We ate lunch at the prison with the staff, and had a terrific meal with soup, salad, bread, and sausages. The meal was prepared by juveniles housed in the prison, under staff supervision.

Unit 3, the space where juveniles cook and eat together, is a unit reserved for reflection for young people with longer sentences. This unit has more staff and resources, including behavioral, social competency and substance abuse therapy.

**ADULT PRISON:** The second day we toured JVA Fuhlsbuttel. This was an 1880's prison complex located in a leafy and upscale suburban setting on the outskirts of Hamburg. With heavy old walls and barbed wire, it appeared like a mammoth, out of place behemoth across from middle class homes.

Despite the massive size, we were told the population was just 232. These were adults, age 21 to 80, with sentences longer than 4 years.



As we walked around, we were informed that unit after unit was empty. Turned out, a portion of the prison had already been converted into a **museum**, and other units were set to be converted into **shops and a mall**. We were informed that one area in the prison had been a concentration camp during WWII – and this open and honest acknowledgement of the past, was consistently the bedrock for the commitment to human dignity.

Other large portions of the prison were devoted to job skills. We stepped into a modern, large bakery that provided baked goods to a variety of elder and children's facilities throughout Hamburg. The staff noted that job skills are a critical part of treatment.

Again, this was a prison – from the barbed wire on the outside, to a small wing for solitary confinement. But it also had a wing for **Unsupervised** – visits up to six hours, that had a small garden outside to facilitate good visits. A group of “prisoners” walked by us with a guard, and it was impossible to tell who was who – they were all walking casually in informal groups and were all in street clothes.

The Director of the prison joined us for a question and answer period over coffee and cake (from the prison bakery). He and his chief of security both clarified the importance of the German hiring and training system – **prison staff are trained for TWO YEARS**. The prison training includes emphasis on psychology, law, social training, pedagogical theory – not just security. **Every state action has to be consistent with human dignity**, according to the prison director. The two year training is followed by a **three year probationary period**.

The intensive staff training and the low numbers of persons imprisoned all result in a safer environment. **The head of security noted that there were only three (3) incidents of violence against staff in the past year.**

#### **CONCLUSIONS:**

**Lower #s in Prison** - The heavy emphasis on prevention, and the legal protections (such as a minimum age of 14) result in a far lower prison (juvenile and adult) in Hamburg than in Cook County, IL.

Today, with concerns about COVID-19 and safety for staff and persons incarcerated, one can see the benefits from a smaller prisons system that can more easily adjust to ensure safety during challenging times.

**Emphasis on Human Dignity** - The constitutional requirement of human dignity ensures that all justice system decisions, policies, programming and facilities strive to ensure the dignity of all persons is respected. This has resulted in intense staff training and supervision, a strong emphasis on education and job skill development in the facilities, an environment that strives to “normalize” life and focus on reintegration, and greater safety for all persons – working or housed – in prison facilities.

**Basic juvenile rights** – Finally, Germany complies with the basic human rights accorded to children in the Convention on the Rights of the Child. These include no prosecution under the age of 14, no prosecution of juveniles (under age 18) in the adult court, and restriction of deprivation of liberty to a last resort and for as short a time as possible in humane facilities. Germany has gone beyond these basic protections, and has also extended juvenile sentences to young adults, with successful outcomes since the 1950's.

As the home of the first Juvenile Court, it is past time for Illinois to extend these same basic human rights to all our children and young adults in conflict with the law.

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i COOK COUNTY Resolution 19-5830 Sponsor – Larry Suffredin  
Approved 10/24/19 [Legislation and Intergovernmental Relations Committee] <https://cook-county.legistar.com/LegislationDetail.aspx?ID=4146669&GUID=3D300F58-DBBD-4DBF-8D6D-679A53FC0079&Options=Advanced&Search=&FullText=1>

**RESOLUTION  
SUPPORTING A REVIEW OF COOK COUNTY POLICIES AND PRACTICES IN LIGHT OF  
THE RECOMMENDATIONS OF THE CONVENTION ON THE RIGHTS OF THE CHILD AND  
THE GLOBAL STUDY ON CHILDREN DEPRIVED OF LIBERTY**

**WHEREAS**, research shows that children prosecuted in the adult criminal justice system are more likely to reoffend than those held in the juvenile justice system; and

**WHEREAS**, until the beginning of the 20th century, courts tried children under the age of 18 in adult settings; and **WHEREAS**, Cook County is home to the world’s first juvenile justice system, which arose from the belief that children

should be removed from adult prison and receive a second chance; and

**WHEREAS**, Cook County consistently leads on protecting children and promoting their rights; and

**WHEREAS**, in the 1980s, the United States participated in a working group along with the nearly eighty other nations that drafted the Convention on the Rights of the Child; and

**WHEREAS**, on November 20, 1989, the United Nations General Assembly unanimously adopted the Convention on the Rights of the Child, with the specific purpose of promoting and protecting the well-being of all children, regardless of national boundaries; and

**WHEREAS**, the Convention on the Rights of the Child has been ratified by all U.N. nations, except the United States, making it the most widely ratified human rights document in history; and

**WHEREAS**, the United States formally signed the Convention on the Rights of the Child in 1995, signifying its intent to ratify the Convention; and

**WHEREAS**, November 20, 2019, marks the 30<sup>th</sup> anniversary of the Convention on the Rights of the Child; and

**WHEREAS**, on October 8, 2019, the United Nations will receive the first international report on the Global Study on Children Deprived of Liberty along with updated recommendations on when and under what conditions children should be detained and deprived of liberty; and

**WHEREAS**, Cook County is committed to continuing its global leadership in promoting justice for children and adolescents, ensuring that all its children receive every internationally recognized human right; and

**NOW, THEREFORE, BE IT RESOLVED**, that we call upon all government agencies in Cook County, in particular, those concerned with juvenile justice, to review their policies and practices in light of the



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recommendations of the Convention on the Rights of the Child and the Global Study on Children Deprived of Liberty.

NOTE – similar resolution approved by Chicago City Council– R2019-688 (Rodriguez, Michael D) – Approved Jan. 28, 2020 <https://chicago.legistar.com/LegislationDetail.aspx?ID=4139541&GUID=7A23DD53-8A32-4F64-93F7->

And similar resolution pending in IL House (HR 544, Rep. Gabel) <http://ilga.gov/legislation/BillStatus.asp?DocTypeID=HR&DocNum=544&GAID=15&SessionID=108&LegID=122090>

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