

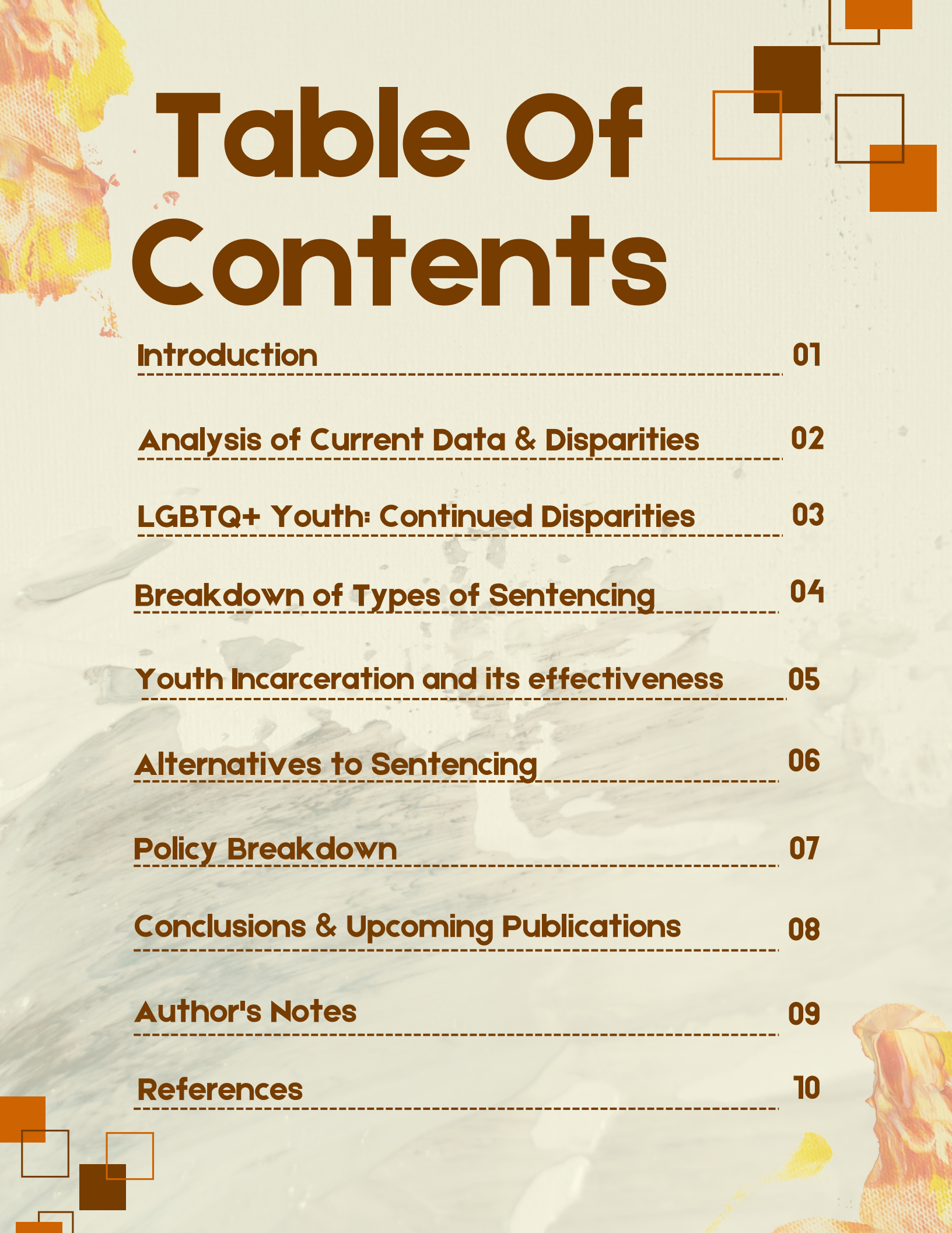
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truth or fact, as a claim;—*adv.* almost; nicely; only a moment ago.  
**justice** (jus'tis) *n.* [L. quality of every one his due, right, or and reality; fair representation or demerit; impartiality; justice or punishment; agreeable to a person duly commissioned to decide controversies and

# **INTERACTIONS WITH INCARCERATION: YOUTH SENTENCING**

**- EYES ON THE LAW - TELESIA JONES &**

**COOPER MERTENS**



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# Introduction



## Youth in the Justice System

The trauma of incarceration isn't experienced solely by adults. Youth who find themselves incarcerated or have been impacted by family members and friends who have experienced incarceration, oftentimes are overlooked and dismissed. This series on the trauma of interactions with the criminal legal system on young people, will take a look at how the incarceration of youth and the important figures around them, have a detrimental impact on their development, social determinants of health and likelihood of continued justice-involvement in the future. This publication will serve as a background in which the future publications will be based on.

## The Scope of the Problem

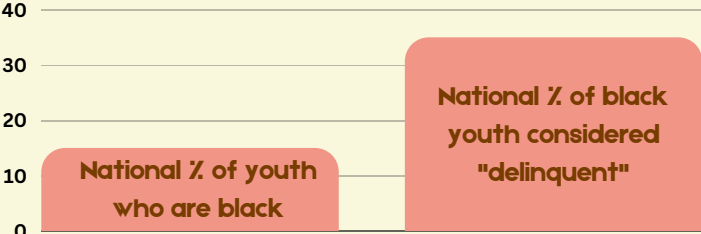
The reaches of incarceration both directly and indirectly impact our youth. Youth who have parents, guardians or prominent members of their lives that have experienced incarceration impact them as much as being incarcerated themselves. This study will discuss how youth interact with the justice-system and how they oftentimes face unequal sentencing and discrimination that leads to continued involvement with the legal system.



# Current Data & Disparities

The Juvenile Justice System, despite recent efforts to reform, is not an exception to the disparate conditions of our criminal legal system. The disparities that exist in both policy and practice cause minority youth communities to be systematically targeted. This is indicative of the historical and systematic oppression of black and brown peoples in the United States. Despite the decline in overall juvenile detention rates, the disparities between the involvement and detainment of black youth, compared to white youth remains strikingly apparent.<sup>7</sup>

## National:

- There were 696,620 total number of juvenile arrests in the U.S. in 2019<sup>7</sup>
  - Nationally Black youth make up 15% of the juvenile population, yet make up **35%** of delinquency caseloads (see chart below)<sup>7</sup>
- 
- | Category  | Percentage |
|---|------------|
| National % of youth who are black                 | 15%        |
| National % of black youth considered "delinquent" | 35%        |
- Black youth are **3x** more likely to be referred to juvenile court for delinquency offenses than their white counterparts.<sup>7</sup>
  - Black youth are more likely to be in custody than white youth in every state but one (Hawaii).<sup>7</sup>
  - Placements in Juvenile Detention Centers: Black youth placement rate was **315 per 100,000**, compared to the white youth placement rate of **72 per 100,000**.<sup>7</sup>

## North Carolina:

- 29,001 total complaints were filed against youth in 2021.<sup>3</sup>
- 2,423 total juvenile detention center admissions in 2021.<sup>3</sup>
- **54%** of complaints in NC were against Black youth.<sup>3</sup>
- **66%** of Juvenile Detention Center Admissions in NC were Black youth.<sup>3</sup>
- In North Carolina, Black youth are **6.8x** more likely to be placed in a Juvenile Detention Center than their white counterparts.<sup>3</sup>



# LGBTQ+

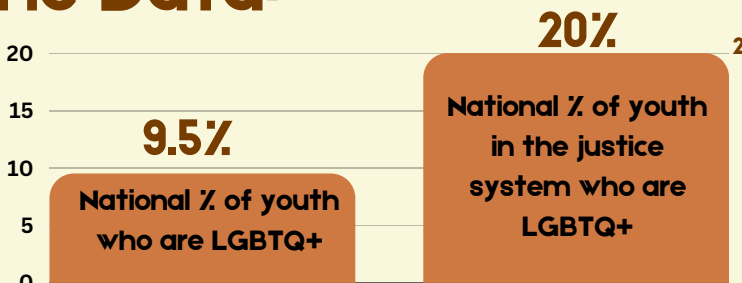
# Youth:

# Continued Disparities

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## The Data:



- 1 in every 5 youth in the justice system is LGBTQ+<sup>1</sup>
- 3.2% of all kids in male youth facilities are LGBTQ+<sup>1</sup>
- 39.4% of all kids in female youth facilities are LGBTQ+<sup>1</sup>



85% of LGBTQ+ youth in facilities are youth of color<sup>1</sup>

- There is no inclusion of LGBTQ+ youth statistics in the juvenile justice system for North Carolina based on NCDPS reports from the last 5 years<sup>6</sup>

## The Disparities:

- Research has shown that youth facing disparities at home and school, such as rejection and harassment, are more likely to enter the juvenile justice system.<sup>1</sup>
- LGBTQ+ youth are more likely to experience these at both home and school, and these factors are contributing to the over-representation of LGBTQ+ youth in the justice system.<sup>1</sup>
- LGBTQ+ youth of color are even more likely to experience these things, and therefore continue to be egregiously over-represented in the justice system.<sup>1</sup>
- Until 2017, there was no mention of LGBTQ+ youth in NCDPS Juvenile Justice reports. In 2018 a policy was implemented for PREA trainings to protect LGBTQ+ youth, but still no reporting requirements exist.<sup>6</sup>
- Once incarcerated, LGBTQ+ youth are 2x as likely as heterosexual youth to be sexually assaulted in facilities. They also face issues of inappropriate placement, abuse by other youth, challenges with family visitation, lack of support and services, inadequate healthcare, and inappropriate community supervision.<sup>1</sup>

# Sentencing Determinations

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## Determining Factors

- The class of the offense (Violent, Serious, or Minor) and the youth's delinquency history level (Low, Medium, or High) will dictate which disposition levels (Level 1, 2, or 3) are available to the court.
- The court must impose a disposition which corresponds to the prescribed level, unless a statutory exception (chronic offender, prior commitment, extraordinary needs, or gang activity) applies.
- Under G.S. 7B-2508(a) juvenile offense classifications are as follows:
  - Violent: Class A through E felonies
  - Serious: Class F through I felonies and Class A1 misdemeanors
  - Minor: Class 1, 2, and 3 misdemeanors
- G.S. 7B-2507 determines the delinquency history level based on prior instances of interactions with the law.

## Types of Sentencing

Youth can be sentenced to a variety of different disposition methods. One mainly focuses on penalization, while the other focuses on rehabilitation.

### Incarceration

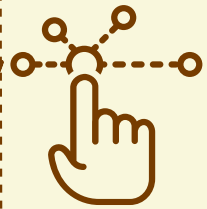
- Home confinement/house arrest.
- Placement with someone other than a parent or guardian
- Juvenile hall/juvenile detention facility.
- Probation/parole following a period of detention.
- Secured juvenile facilities.
- Adult jail or prison.

### Rehabilitation

- Verbal warning
- Fine
- Counseling
- Community service
- Electronic monitoring
- Probation

## So What Remains?

Fundamentally what needs to change is not only the disproportionate application of certain penalties when it comes to Black youth and White youth but also the way society thinks about Juvenile Justice. Rather than punishing youth in negative and oppressive ways, addressing root causes of justice-involvement due to adverse childhood experiences and other factors may be the key to preventing long-term trauma and continued justice-involvement.



# Impacts of Youthful Incarceration

**Incarceration impedes a student's ability to receive an education and to obtain gainful employment<sup>5</sup>**

**Incarceration further traumatizes our youth and leads to increased recidivism later in life<sup>5</sup>**

**Incarceration does not address nor prevent the behavior that it is meant to target<sup>5</sup>**



**Youth of Color are more likely to be disproportionately sentenced to incarceration compared to White Youth<sup>5</sup>**

**Incarceration is counterproductive and produces the very outcomes that are trying to be prevented<sup>5</sup>**

**Juvenile Incarceration Centers serve as facilities of traumatization<sup>5</sup>**

# Alternatives to Incarceration & Reform

Incarcerating our young people does little to solve our problems. Incarceration leads to cycles of traumatization that lead to prolonged and escalating instances of justice-involvement. Rather than resorting to detention, new methods of supporting youth should be developed.<sup>5</sup>

Community-Based Supervision Programs

Intensive & Individualized treatments plans based on proven therapy models

Smaller, "home-like" facilities to replace traditional, large detention facilities

Reduce and prevent disproportionate contact and incarceration of Black and Brown Youth

Implementation of trauma-informed courts in which judges are required to be trained in recognizing and addressing ACEs

Increased focus on youth advocacy programs that provide trauma-informed support for youth

End systematic racism in policies and institutions that overcriminalized Black youth





# Policy Breakdown and Reform

## Juvenile Justice Reinvestment Act: NC Raise the Age

- In December 19, 2021, this Act increased the age of juvenile court jurisdictions to include all crimes and infractions committed by 16 and 17-year-olds, excluding motor vehicle offenses. The Juvenile Court's jurisdiction now continues to age 19 for offenses committed by 16-year-olds, and to age 20 for offenses committed by 17-year-olds, unless terminated earlier by the court. This Act also made changes to victims rights, juvenile gang suppression, law enforcement access to records, community partnerships, and various other aspects of Juvenile Law.
  - 70% of minors impacted by Raise the Age in 2022 were youth of color.<sup>4</sup>
  - 76 - Percentage of the 14,241 Raise the Age-related delinquent complaints filed against youth of color: "Youth of color remain over-represented in the juvenile justice system"<sup>4</sup>
  - Black youth continue to receive 2x more complaints than white youth.<sup>4</sup>

## State v. Kelliher & State v. Conner

- The Supreme Court of North Carolina's ruling asserted that de facto life sentences for youth's who were convicted as children. The ruling set a 40 year threshold on sentencing for youth. However, it did not set a minimum.

## SUGGESTIONS FOR IMPROVEMENT

Implementing state-wide ACE'S/Trauma informed courts which mandate training for judges.

Investigating, reporting and addressing the over representation of Black & Brown youth in the criminal legal system

Mandate social workers geared towards providing support to families and their children with interactions with the legal system

Advocating for legal reformation that turns away from punishment and instead embraces rehabilitation and addresses the root issues of justice-involvement for youth

# Conclusion

In this publication we have set up a basis of a review of the currently available data and literature on youth involvement and sentencing in the juvenile justice system. We have examined and identified the disparities that currently exist within juvenile justice on both a National- and State-level. Based on the current data and literature those disparities include, but are not limited to:

- The disproportionate involvement & targeting of black and brown youth in the juvenile system<sup>3,7</sup>
- The disproportionate involvement of LGBTQ+ youth in the juvenile system<sup>1,2</sup>
- The further traumatization of youth due to their involvement in the juvenile justice system<sup>6</sup>.
- Disproportionate sentencing factors among race<sup>6,7</sup>

Current policies and practices were also examined. Despite reform efforts, black and brown youth continue to be disproportionately impacted by incoming policies such as Raise the Age. Finally, alternatives to incarceration and reform opportunities such as implementing trauma-informed courts and practices, were given for suggestions of how to move forward.

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## Upcoming

## Publications:

### EOL's Youth-Trauma Series

#### 1. Interactions with Incarceration:

**Youth Sentencing** (Present Publication)

#### 2. The Realities of Growing Up with Incarcerated Family

**Members** (July 2023)

#### 3. Implementations of Trauma- Informed Courts (October 2023)

#### 4. Realities: The School to Prison Pipeline (December 2023- January 2024)

# AUTHOR'S NOTES

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## Telesa Jones

(She/Her/Hers)

My favorite teacher was my Fourth Grade teacher, Beverly Ellison Phillips. Not only was she a phenomenal teacher, but she saw my pain, hurt & trauma and rather than punish me for it, she taught me about healing and resilience. School is meant to be a safe space for students to learn and grow. However, turning schools into prisons of education, is pushing our young people into the streets and inevitably leading to justice-involvement and repeated cycles of traumatization. It is imperative that these systems that have criminalized our Blackness be seen for what they are: the culmination of efforts to dehumanize, degrade, destroy and segregate Black communities.



## Cooper Mertens

(They/Them/Theirs)

"Our youth is our future", a term that I grew up hearing all throughout our society, yet a term that is often not upheld in practice. Youth, especially minority youth, experience systematic disparities and disadvantages each and every day, yet these disparities are often overlooked. I hope with the writing of this publication we can bring awareness to how youth are being stunted by the disparate juvenile justice system and bring awareness to how we could better promote our future by decarcerating youth and implementing trauma-informed practices. I am also thrilled to be able to include some information of an often overlooked population, LGBTQ+ youth. There are currently 469 anti-LGBTQ+ bills being proposed in the U.S. and 11 in N.C. alone, which makes it that much more important to acknowledge and track the experiences of LGBTQ+ youth in the juvenile justice system.

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